

MT LEGISLATIVE HISTORY

Chapter 192 19 65

Bill H (S) 190

Session Law
Original bill & hist. C

H. Committee on Highways

S. Committee on Highway Transportation

Hearing Date(s) FEB 23 C

Hearing Date(s) JUN 25 C

FEB 25 C

FEB 03 C

FEB 29 C

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Date Out FEB 27 ✓C

FEB 03 ✓C

Did this bill originate in an interim committee? Yes No

Committee

Report

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

BILL NO. ENTERED COMM. OUT OF COMM. DO PASS DO NOT PASS DO PASS AS AMENDED BE CON-CURRED IN BE NOT CON-CURRED IN

SB 72	1/20/65	1/20/65	*				
SB 68	1/20/65 ^{to Sub-Comm.}	1/25/65	*				
HB 46	1/20/ Sub-Comm.	2/17/65 Amended	*			*	
SB 125	1/22/65	1/22/65	*				
SB 131	1/25/65	1/25/65	*				
SB 132	1/25/65	1/25/65 Amended	*				
SB 170	1/25/65	1/3/65	*				
SB 92	1/27/65	2/5/65 Amended	*				
SB 117	1/27/65	1/27/65	*				
SB 45	1/29/65	1/3/65		*			
SB 91	1/29/65	2/5/65 Amended	*				
SB 220	2/1/65	2/8/65	*				
SB 175	2/1/65	2/8/65		*			
SB 168	2/5/65	2/5/65	*				
SB 153	2/5/65	2/5/65 Amended	*				
SB 133	2/5/65	2/5/65	*				
SB 145	2/5/65	2/5/65	*				
SB 125	2/8/65	2/8/65	*				

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MINUTES OF MEETING OF THE
HIGHWAY AND TRANSPORTATION COMMITTEE
STATE SENATE

January 25, 1965

A meeting of the Highway and Transportation Committee was called to order by Chairman Bovey, January 25, 1965, at 2:45 p.m. in room 407.

Roll call by secretary: Absent were Senators Manning, Reardon and Mahoney.

A short review and discussion of SENATE BILL NO. 68, re: width of haystack movers permissible on highways.

MOVED BY SENATOR MICHELS THAT SB NO. 68 DO PASS; SECOND, SENATOR MORITZ. CARRIED.

CONSIDERATION OF SB. NO. 131, re: PROPORTIONAL REGISTRATION OF FLEET VEHICLES.....LICENSE FEES AND TAXES. Presentation and explanation by Senator Michels, sponsor. Discussion.

MOVED BY SENATOR MCGOWAN THAT SB NO. 131 DO PASS; SECOND, SENATOR BENTZ. CARRIED.

CONSIDERATION OF SB NO. 132. re: ASSESSMENT AND COLLECTION OF PERSONAL PROPERTY TAXES ON PROPORTIONALLY REGISTERED INTERSTATE MOTOR VEHICLE FLEETS. Explanation by Senators Michels and Moritz, sponsor and co-sponsor. Discussion.

MOVED BY SENATOR MCGOWAN THAT SB NO. 132 DO PASS; SECOND, SENATOR HAUK. CARRIED.

CONSIDERATION OF SB NO. 170, re: RECODIFICATION OF HIGHWAY LAWS (big one) This had been presented and explained several days before by Don McPherson, Attorney for State Highway and Tom Harrison, Attorney on Mr. McPherson's staff at the highway office. There had been study and recodification of all highway laws at the Law School at the State University at Missoula. The purpose was to get all the laws pertaining to highways together in one volume of the law instead of in 7 volumes and with the hope of clarification of language and to shorten the acts without changing the meaning. Many of the laws had been passed in 1895 pertaining to highways in use at that time.

MOVED BY SENATOR MORITZ THAT SB NO. 170 (a committee bill) DO PASS, SECOND, SENATOR MCGOWAN. CARRIED. Discussion re. savings clause.

MOVED BY SENATOR MCGOWAN THAT PREVIOUS ACTION ON SB NO. 170 BE WITHDRAWN, SECOND, SENATOR MORITZ, for purpose of checking with highway attorneys to see if it needed a savings clause and other pertinent information. CARRIED.

ADJOURNMENT.

Charles A. Bovey
Chr. Charles A. Bovey

MINUTES OF MEETING OF THE
HIGHWAY AND TRANSPORTATION COMMITTEE
STATE SENATE

February 3, 1965

A meeting of the Highway and Transportation Committee was called to order by Chairman Bovey, February , 1965, at 4:00 p.m. in room 407 of State Capitol.

Roll Call: All members present, except Senator Cole.

RECONSIDERATION OF SENATE BILL NO. 170 - Committee- Recodification of Highway Law.

PROPOSERS FOR S.B. No. 170:

Don MacPherson, Attorney for State Highway Department

Tom Harrison, Attorney in State Highway Department

Dr. Gardner Gromwell, on Faculty of School of Law at Montana State University

This project was undertaken originally by the Montana State University, under contract with the State Highway Commission as an academic research project. I worked as a member of the faculty to act as coordinator and advisor. The project organized and up-dated the Montana law pertaining to the highways. It took 15 months; we examined 100 statutes, many court decisions and opinions. A summary report is made and presented to each of the committee in booklet form showing the comments, the original law and the changes.

William F. Crowley, Attorney hired to check over the report.

Considerable discussion and questions asked by the committee members.

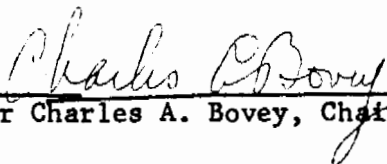
Moved BY SENATOR MCGOWAN THAT S.B. NO. 170 BE AMENDED WITH A SAVINGS CLAUSE AND EFFECTIVE DATE OF JANUARY 1, 1967, AND RECOMMENDED THAT IT DO PASS; Second SENATOR MAHONEY; CARRIED.

CONSIDERATION OF S.B. NO. 45- Graham, Permanent ownership of license plates on cars.

It was pointed out by Senator Mahoney that there were points in the bill that appeared to be unconstitutional. Also Tom Harrison pointed out that there was confusion in the bill of the terms licenses and fees for GVW on cars. DISCUSSION AND QUESTIONS:

MOVED BY SENATOR MORITZ THAT S.B. 45 DO NOT PASS; SECOND, SENATOR HOLT; CARRIED.

ADJOURNMENT:



Senator Charles A. Bovey, Chairman

February 23, 1965

The committee on Highways met at 4:30 p.m., with a quorum present and Chairman Laas presiding.

The committee reconsidered Senate Bill 91. Rep. John E. Healy of Silver Bow County proposed an amendment, attached. He then introduced the following proponents: Mr. Al Klinger, Shelby, Montana, Director of the Montana Municipal League; Mr. W.J. Leary of Helena, Montana, President of the Montana Municipal League; and Mr. William F. Crawley, attorney for the Montana Municipal League.

Senator Gordon McGowan of Chouteau County, principal sponsor of this bill, spoke against the proposed amendment. He said there was great popular support for the bill and was afraid the amendment could kill it. Sen. McGowan also stated that the money would do more good in the general fund than to be divided among the 124 incorporated towns in the state. He ended his talk with, "Whatever you do, don't kill this safety bill."

Mr. Klinger and Mr. Crawley defended their position and said they were not appearing to cloud any issues but would at least like a token which they realized would be just that.

John Harrison, attorney for the Highway Commission, reported on the attorney general's opinion on haystack mover; in regard to Senate Bill 68: "Haystack mover is an implement of husbandry and is already covered by the present law".

Dr. Gardner Cromwell, MSU law professor, appeared before the committee on Senate Bill 170 and gave the background of the conduction of the study made by the law school. He was then questioned by the committee. See rough notes for complete statement of Cromwell's and the questioning.

Mr. Stevens, County Commissioner from Blaine County appeared and stated he had made a study of the bill looking for things that should be amended in 1967. Other than the following he saw no real problem with the main bill:

Page 11, line 69, salary increased,
Page 38, line 95, should be \$20.00,
Page 40, line 158 - 160,
Page 40, line 164, shall changed to may,
Page 60, line 716, general road fund,
Page 82, line 107 - Page 83, line 110,
Page 96, line 210 - 220, should be defined what is proper order comm,
Page 99, line 305, should include words "supervisor or road superintendent
Page 100, line 319 - 320, strike \$7.00 pay.
Page 113, line 37 - 100 on page 119, this is obsolete now, and
Page 125, line 276 - 547.

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Mr. Robert Heath, attorney of Bozeman, Montana, representing Montana Water Well Drillers Association, appeared before the committee objecting to line 323 on page 127 of Senate Bill 170. He stated they felt water well machinery should have been included in this as well as oil and gas drilling machinery.

Mr. Pat Hooks stated he came to ask a question of the committee and was not appearing as a proponent nor an opponent. He asked if Section 3 and all amendments would get Montana into the Neuberger Act. Mr. John Harrison, attorney for Highway Commission, replied no and that it had been confusing to the senators as well. Mr. Cromwell stated that Section 4101 is verbatim from their report and that it makes it possible for the state to take advantage of all projections in federal acts if they were so minded; used permissive form "may", not a peremptory directive.

COMMITTEE ACTION:

Senate Bill 68: Rep. Deschamps moved be not concurred in; Rep. Schye seconded; motion carried unanimously. Rep. Lewis suggested the Chairman should instruct the head of the Highway Patrol on this; Chairman Laas assented.

Senate Bill 91: Rep. Pierce moved amendment be not concurred in; Rep. Deschamps seconded; motion carried unanimously. Rep. O'Hair moved to amend on line 49, page 3 by striking \$1.00 and inserting in lieu thereof 50¢. Rep. Egan seconded and the motion carried unanimously. Rep. Broeder suggested the chairman take the amendment to the law clerk for proper drafting. Rep. Deschamps moved it be concurred in as amended; Rep. Broeder seconded; motion carried unanimously.

Senate Bill 170: Rep. Broeder moved it be put into subcommittee for further study. Rep. Dye seconded his motion and it was carried unanimously. Chairman Laas stated he would appoint a subcommittee at a later date.

Walter Laas Chairman
REP. WALTER LAAS

February 25, 1905

The committee on Highways met at 4:45 p.m., with a quorum present and Chairman Laas presiding.

Rep. John Pierce of Yellowstone County introduced House Resolution 14, stating his reason was he had lost a bill which had to do with the same thing.

Rep. Watt moved House Resolution 14 do pass; seconded by Rep. Dye; the motion carried.

Chairman Laas reported the only question in regard to Senate Bill 170 was the effective date. Rep. Watt moved it be concurred in; seconded by Rep. Selstad; motion carried, unanimously. Rep. Selstad suggested that more than one on each side of the aisle speak on the bill rather than having one do all the talking.

The meeting was adjourned at 5 p.m.



Chairman
REP. WALTER LAAS

February 27, 1965

The committee on Highways met at 11:30 a.m, with a quorum present and Chairman Laas presiding.

The committee reconsidered Senate Bill 170. Rep. Dye moved amendments be adopted, see attached committee report; Rep. Watt seconded; motion carried unanimously. Rep. Broeder moved it be concurred in as amended; Rep. Egan seconded; carried unanimously.

The meeting was adjourned at 11:35 a.m.

William Laas Chairman

/sm

SENATE BILL 170

Mr. Chairman: I move to amend Section 4-301 of Senate Bill 170, page 16, lines 9 and 10 of the original bill which is line 318, page 20 of the printed bill by deleting the word and figures, "section 84-1817", and inserting in lieu thereof "sections 4-308 through 4-310."

Be it further amended in Section 5-407, page 43, line 9, of the original bill and page 49, line 397 of the printed bill by adding the word "district" following the word "improvement".

Be it further amended in Section 5-414, page 45, line 29 of the original bill, which is page 51, line 476 of the printed bill by deleting the word "or" and inserting the word "for" in lieu thereof.

Be it further amended in Section 6-502, page 67, line 13 of the original bill which is line 420, page 75 of the printed bill by deleting the comma following the word "made".

Be it further amended in Section 6-509, page 71, line 3 of the original bill, which is line 530, page 79 of the printed bill by deleting the comma following the word "bonds".

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Be it further amended in section 6-214, page 62, line 6 of the original bill which is page 69, line 262 of the printed bill by deleting the word "of" following the word "trailer" and inserting the word "or" in lieu thereof.

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Race exclusively
for Montana bred
horses—bonus
for winner.

Section 9. Race exclusively for Montana bred horses—bonus for winner. For the purpose of encouraging the breeding, within the state, of valuable thoroughbred, purebred, quarter horse, appaloosa and/or registered horses, at least one (1) race each day at each race meet shall be limited to Montana bred horses. If in the opinion of the commission sufficient competition cannot be had among such class of horses, said race may be eliminated for said day and a substitute race provided instead.

A sum equal to ten per cent (10%) of the first money of every purse won by a Montana bred horse shall be paid by the licensee conducting the race meet to the breeder of such horse.

Public liability
insurance.

Section 10. Public liability insurance. For the protection of the public, and all members thereof, the exhibitors and visitors, every person licensed to conduct a race meet under the provisions of this act shall carry public liability insurance in an amount and form of contract and with a company authorized to do business in Montana.

Parimutuel betting
—other betting
illegal.

Section 11. Parimutuel betting—other betting illegal. Any licensee conducting a race meet under this act may provide a place or places in the race meet grounds or enclosure at which such licensee may conduct or supervise the use of the parimutuel system by patrons on the result of the races conducted by such licensee at such race meet, and such parimutuel system conducted at such race meet shall not under any circumstances, if conducted under the provisions of this act and in conformity thereto and to the rules and regulations of the commission, to be held or construed to be unlawful, other statutes of this state to the contrary notwithstanding.

It shall be unlawful to conduct pool selling, book making, or to circulate hand books, or to bet or wager on a race of any licensed race meet, other than by the parimutuel system, and in the race meet grounds or enclosure where the race is held, and it shall further be unlawful to permit any minor to use the parimutuel system.

Distributions
of deposits—
"breakage."

Section 12. Distributions of deposits—breakage. Each licensee conducting the parimutuel system shall distribute all sums deposited in any pool to the winner

thereof, less an amount which shall not exceed twenty per cent (20%) of the total deposits plus the odd cents of all redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten (10), known as "breakage."

Section 13. Licensee's right to withhold deposits. In the event any government or governmental agency imposes a levy on a licensee, by a special tax on the money so deposited under the parimutuel system, or upon or against his receipts therefrom, the said licensee may withhold in addition to the aforesaid per centum and breakage the amount of the tax so levied.

Licensee's right to
withhold deposits.

Section 14. Allocation of license tax receipts. License tax receipts on racing associations shall be collected and disposed of as provided by section 84-6502, R. C. M. 1947.

Allocation of
license tax
receipts.

Section 15. Repealing section 94-2425, R. C. M. 1947, and section 84-6501, R. C. M. 1947, enacted as section 1, chapter 57, laws of 1961, and all acts and parts of acts in conflict herewith.

Repealing clause.

Section 16. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Severability clause.

Section 17. This act is effective on its passage and approval.

Effective
immediately.

Approved March 5, 1965.

CHAPTER 197

An Act to be Known as the Montana Highway Code, for the Codification and General Revision of the Laws Pertaining to Highways, Including Planning, Construction, and Maintenance; Amending Sections 16-1004, 16-2008, 16-2010, 16-2011, 16-3302, 53-122, 84-1831, 94-3202, and 94-3565, R. C. M. 1947, and Repealing Sections 16-1004.1, 16-1118, 16-1127, 16-1128, 16-2009, 16-2201 Through 16-2204, 16-3311, 16-3312, 32-102 Through 32-107, 32-201 Through 32-208, 32-302 Through 32-314,

32-316, 32-401 Through 32-413, 32-415, 32-416, 32-501, Through 32-507, 32-509 Through 32-526, 32-601, 32-602, 32-701 Through 32-711, 32-713 Through 32-715, 32-901 Through 32-905, 32-1002 Through 32-1010, 32-1012 Through 32-1014, 32-1016, 32-1301, 32-1601 Through 32-1610, 32-1613 Through 32-1618, 32-1620, 32-1622 Through 32-1626, 32-1801 Through 32-1804, 32-1901 Through 32-1915, 32-2001 Through 32-2010, 53-615 Through 53-619, 53-621 Through 53-623, 53-628 Through 53-631, 53-634 Through 53-639, 53-643, 84-1812 (1), 84-1812 (2), 84-1815, 84-1817, 89-821, 89-822, and 94-3201, R. C. M. 1947; Providing for a Savings Clause and Providing for the Effective Date of This Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Legislative Intent.

Chapter 1. LEGISLATIVE INTENT.

Safe and efficient highway transportation is of interest to people of the state.

Section 1. The legislative assembly recognizes that safe and efficient highway transportation is of important interest to all of the people of the state and hereby determines and declares that:

(1) Inadequate highways, roads, and streets obstruct the free flow of traffic, increase costs of motor vehicle operation, endanger the health and safety of the citizens of the state, depreciate property values, and impede generally the economic progress of the state.

(2) The problems of establishing and maintaining adequate highways, roads, and streets, eliminating congestion, reducing accident frequency, providing parking facilities, and taking all necessary steps to insure safe and convenient transportation are urgent.

(3) Therefore, adequate and integrated systems of highways, roads, and streets are essential to the general welfare of the state of Montana.

(4) Providing adequate highway facilities is a proper public use and purpose, and that this act is necessary for the preservation of the public peace, health, and safety, for the promotion of the general welfare, and as a contribution to the national defense.

Intent of legislative assembly.

Section 2. Consistent with the foregoing determinations and declarations the legislative assembly intends:

(1) To place a high degree of trust in the hands of those officials whose duty it is, within the limits of avail-

able funds, to plan, develop, operate, maintain and protect the highway facilities of this state for present as well as for future use.

(2) To make the state highway commission custodian of the federal-aid and state highways, and to impose similar responsibilities upon the boards of county commissioners with respect to county roads and upon municipal officials with respect to the streets under their jurisdiction.

(3) That the state of Montana shall have integrated systems of highways, roads, and streets, and that the state highway commission, the counties and municipalities assist and cooperate with each other to that end.

(4) To provide sufficiently broad authority to enable the highway officials at all levels of government to function adequately and efficiently in all areas of their respective responsibilities, subject to the limitations of the constitution and the legislative mandate hereinafter imposed.

Chapter 2. DEFINITIONS.

Definitions.

Section 2-101. **General Definitions.** Subject to additional definitions contained in subsequent chapters of this Code which are applicable to specific chapters or parts, and unless the context otherwise requires, terms are defined as follows:

General definitions.

(1) "Abandonment"—Cessation of use of right of way (easement) or activity thereon with no intention to reclaim or use again. (Sometimes called "vacation.")

"Abandonment."

(2) "Auditor"—County auditor.

"Auditor."

(3) "Authority"—Montana toll bridge authority.

"Authority."

(4) "Board"—Board of county commissioners.

"Board."

(5) "Bridge"—Includes rights of way or other interest in land, abutments, superstructures, piers, and approaches except dirt fills.

"Bridge."

(6) "Clerk"—County clerk and recorder.

"Clerk."

(7) "Commission"—State highway commission.

"Commission."

(8) "Committee"—Local improvement district committee of supervisors.

"Committee."

- "Condemnation." (9) "Condemnation"—Taking by exercise of the right of eminent domain.
- "Construction." (10) "Construction"—Supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping, costs of right of way or other interests in land and elimination of hazards at railway-grade crossings.
- "Control of access." (11) "Control of access"—The condition in which the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by public authority.
- "County road." (12) "County road"—Any public highway opened, established, constructed, maintained, abandoned, or discontinued in accordance with the provisions of part 2 of chapter 8 and part 4 of chapter 5 of this Code.
- "Easement." (13) "Easement"—A right acquired by public authority to use or control property for a designated purpose.
- "Eminent domain." (14) "Eminent domain"—The right of the state to take private property for public use.
- "Engineer." (15) "Engineer"—State highway engineer.
- "Federal-aid highway." (16) "Federal-aid highway"—Any public highway which is a portion of any of the federal-aid highway systems.
- "Federal-aid highway systems." (17) "Federal-aid highway systems"—All of the systems named hereafter and their urban extensions.
- "Federal-aid interstate system." (18) "Federal-aid interstate system"—That system of public highway selected by the commission in cooperation with adjoining states, subject to the approval of the secretary of commerce as provided in the federal highway act, as amended.
- "Federal-aid primary system." (19) "Federal-aid primary system"—That system of connected public highways designated by the commission subject to the approval of the secretary of commerce, as provided in the federal highway act, as amended.
- "Federal-aid secondary system." (20) "Federal-aid secondary system"—That system of public highways not on the federal-aid primary or in-

terstate systems selected by the commission in cooperation with the boards of county commissioners, subject to the approval of the secretary of commerce, as provided in the federal highway act, as amended.

(21) "Fee simple"—An absolute estate or ownership in property including unlimited power of alienation. "Fee simple."

(22) "Highway"—Includes rights of way or other interests in land, embankments, retaining walls, culverts, sluices, drainage structures, bridges, railroad-highway crossings, tunnels, signs, guardrails, and protective structures. "Highway."

(23) "Highway," "road," "street"—Whether they appear together or separately or are preceded by the adjective "public," these are general terms denoting a public way for purposes of vehicular travel, including the entire area within the right of way. "Highway," "road," "street."

(24) "Highway authority (ies)"—The entity (ies) at any level of government authorized by law to construct and maintain highways. "Highway authority(ies)."

(25) "Maintenance"—Preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for its safe and efficient utilization. "Maintenance."

(26) "Public highways"—All streets, roads, highways, bridges, and related structures, which have been or shall be: "Public highways."

(a) Built and maintained with appropriated funds of the United States or the state or any political subdivision thereof.

(b) Dedicated to public use.

(c) Acquired by eminent domain.

(d) Acquired by adverse user by the public, jurisdiction having been assumed by the state or any political subdivision thereof.

(27) "Right of way"—A general term denoting land, property, or any interest therein, usually in a strip, acquired for or devoted to highway purposes. "Right of way."

(28) "State highway"—Any public highway planned, laid out, altered, constructed, reconstructed, improved, repaired, maintained, or abandoned by the commission. "State highway."

- "Superintendent." (29) "Superintendent"—County road superintendent.
- "Supervisor." (30) "Supervisor"—County road supervisor.
- "Surveyor." (31) "Surveyor"—County surveyor.
- "Toll bridge." (32) "Toll bridge"—Any bridge constructed by the Montana toll bridge authority, together with all appurtenances, additions, alterations, improvements, replacements, and the approaches thereto, lands used therefor, and improvements thereon.
- "Treasurer." (33) "Treasurer"—County treasurer.

Classification
of highways.
Classification—
highways
and roads.
Public highways.

Chapter 3. CLASSIFICATION OF HIGHWAYS.

Section 3-101. **Classification—Highways and Roads.**

(1) Public highways of this state are classed as follows:

- (a) Federal-aid highways
- (b) State highways
- (c) County roads
- (d) City streets.

(2) All highways which are not designated, selected, established, constructed, or maintained by the commission are county roads or city streets.

County roads.

(3) County roads are those opened, established, constructed, maintained, changed, abandoned, or discontinued, in accordance with the provisions of part 2 of chapter 8 and part 4 of chapter 5 of this Code.

City streets.

(4) City streets are those public highways under the jurisdiction of municipal officials.

Lewis and Clark
highway.

Section 3-102. **Lewis and Clark Highway.** There is hereby established the Lewis and Clark Highway. It shall be composed of the following existing routes: (1) From the Idaho state line west of Lolo Hot Springs, Montana, to the junction with U.S. highway ninety-three (93) at Lolo.

(2) Thence north from Lolo on U.S. highway ninety-three (93) to Missoula.

(3) Thence east from Missoula on U.S. highway twelve (12) and ten (10) to Garrison.

(4) Thence east from Garrison on U.S. highway twelve (12) through Forsyth and Baker to the North Dakota state line.

Chapter 4. STATE ADMINISTRATION.

Part 1. **Assent To Federal Aid. State Highway Commission, Powers And Duties.**

Section 4-101. **Assent to Federal-Aid Acts.** (1) The legislative assembly, for and on behalf of the state of Montana, assents to the provisions of the federal-aid road act, approved July 1, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto.

(2) The commission may, for and on behalf of the state, enter into all contracts and agreements with the United States or any officer, department, or bureau thereof relating to the construction, reconstruction, repair, and maintenance of highways in the state.

(3) The commission may make all rules necessary to comply with the provisions of the acts assented to, and all other acts granting aid for public highways, and to obtain for the state the full benefits of such acts.

(4) The commission may do all other things necessary or required to carry out fully the cooperation contemplated by the acts of Congress assented to.

Section 4-102. **State Highway Commission.** The state highway commission consists of five (5) members to be appointed by the governor with the consent of the senate. Members of the commission now holding office shall continue until the expiration of their terms.

Section 4-103. **Commission Members—Qualifications—Appointment.** (1) Each member shall be a citizen of the United States and a resident of the state of Montana.

(2) One (1) member shall be a bona fide resident of and appointed from each of these districts, each composed of the counties named:

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Lewis and Clark, Jefferson, Broadwater.

(b) District 2. Powell, Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Wheatland, Park, Sweet Grass.

State
administration.
Assent to federal
aid—state high-
way commission,
powers and duties.
Assent to federal-
aid acts.

State highway
commission.

Commission
members—
qualifications—
appointment.

Districts—
counties.

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Judith Basin.

(d) District 4. Fergus, Petroleum, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan.

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Rosebud, Treasure, Custer, Powder River, Carter, Fallon.

Terms—
limitations.

(3) (a) The terms of office of the members of the state highway commission shall be for four (4) years, and shall expire on the first day of February.

(b) If a vacancy occurs, the governor shall appoint with the consent of the senate a person having the qualifications herein provided who shall hold office only for the unexpired portion of the term in which the vacancy occurs.

(4) (a) No two (2) members shall at the time of appointment or thereafter during their respective terms of office be residents of the same district.

(b) Not more than three (3) members shall at the time of appointment or thereafter during their respective terms be members of the same political party.

(c) No elective state official or state officer during the term of office to which he was elected or appointed and no state employee shall be a member of the commission.

(d) No member shall be removed from office by the governor before the expiration of his term except for a disqualifying change of residence or for a cause based upon a determination of incapacity, incompetence, neglect of duty, or malfeasance in office.

Commission
members—bond
—expenses.

Section 4-104. **Commission Members—Bond—Expenses.** (1) Each member shall give bond conditioned for the faithful performance of his duties in the sum of ten thousand dollars (\$10,000).

(2) Each member shall receive twenty dollars (\$20) per diem for each day actually spent in the performance of his duties and his actual necessary traveling and other expenses in going to, attending, and returning from meetings of the commission. Each member shall also re-

ceive his actual and necessary traveling and other expenses incurred in the discharge of such duties as may be required of him by a majority vote of the commission. In no event shall a member's per diem payments exceed two thousand dollars (\$2,000) in any one (1) year.

Per diem
limitation.

Section 4-105. **Commission — Chairman — Meetings.**

(1) Annually the commission shall elect one (1) of its members as chairman. Election as chairman shall not interfere with the member's right to vote on all matters before the commission.

Commission
—chairman
—meetings.

(2) The commission shall meet at least once each month for the purpose of transacting business including the consideration of claims and the letting of contracts.

(3) Three (3) members shall constitute a quorum. No resolution, motion, or other decision of the commission shall be adopted or passed without the favorable vote of at least three (3) members.

Section 4-106. **General Power of Commission.** The commission may plan, lay out, alter, construct, reconstruct, improve, repair, maintain, and abandon highways on the federal-aid systems and state highways. It may cooperate and contract with counties and municipalities to provide assistance in performing such functions on other highways and streets.

General power
of commission.

Section 4-107. **Commission to Designate Highways.**

(1) The commission shall designate such public highways in the state as shall be classed as the federal-aid primary system.

Commission to
designate
highways.

(2) The commission shall in cooperation with the board of county commissioners, select such public highways in the state as shall be classed as the federal-aid secondary system.

(3) The commission shall, in cooperation with adjoining states, select the routes of the federal-aid interstate system.

(4) The commission shall designate such public highways in the state as shall be classed as state highways and make necessary rules and regulations for the construction, repair, maintenance, and marking of state highways and bridges.

Designation of highways not located entirely within the state.

Conditions.

Section 4-108. **Designation of Highways Not Located Entirely Within the State.** (1) The commission may designate highways subject to improvement under the provisions of the federal-aid road act, approved July 11, 1916, the federal highway act, approved November 9, 1921, and all amendments thereto, even though such highways are not located entirely and continuously within the boundaries of the state. Such designations shall meet the following conditions:

(a) That the highway is on an approved federal-aid route and eligible for improvement under the federal-aid acts.

(b) That the location of a portion of the route outside the boundaries of the state is necessary because of natural geographical or physical conditions which make the construction of the highway within the state impossible or impracticable.

(c) That the portion of the route located outside the state does not connect with and is not a part of the state highway system of the adjoining state.

(2) The commission may expend funds for the construction, reconstruction, engineering, administration, betterment, and maintenance of such highways. It may do all things necessary or required to carry out fully the cooperation contemplated under the federal-aid acts with regard thereto.

Duties of commission—reports.

Section 4-109. **Duties of Commission—Reports.** The commission shall: (1) Make all rules and regulations necessary for its government.

(2) Maintain and preserve all its records in its office at the capitol, keeping its office open at such times as its business shall require.

(3) File and preserve:

(a) A record of all proceedings and orders pertaining to the matters under its direction.

(b) Copies of all plans, specifications, contracts, estimates and official acts.

(4) Prepare and submit to the governor on or before the fifteenth day of each month a report of work constructed, under construction, and proposed for construction.

tion, the progress made during the preceding month, and recommendation for improvements and their estimated costs.

(5) Prepare and submit to the governor and the legislative assembly during its regular session, not later than the fifth legislative day, a comprehensive condensed report of commission activities for the preceding biennium. The report shall include:

(a) An accounting for all moneys received from federal or state sources.

(b) A review of projects undertaken and completed.

(c) A summary of maintenance work performed.

(d) Statistical tables covering personnel changes, compensation and status.

(e) A review of right of way procurement experience, including condemnation proceedings and the average price paid per acre of land in representative areas of the state.

(f) All other matters which would assist the assembly in determining the financial and legal requirements of the commission for the following biennium.

Section 4-110. **Compilation of statistics—investigation—consultation.** (1) The commission shall compile statistics regarding public highways throughout the state and collect all related information deemed expedient.

Compilation of statistics—investigation—consultation.

(2) It shall investigate various methods of construction adapted to different sections of the state, and decide the best methods of construction and maintenance of highways, bridges, and road markers.

(3) The commission and the state highway engineer may be consulted at all reasonable times by county officers having care and authority over highways and bridges and shall advise them on construction, repair, alteration, or maintenance.

(4) The commission and the engineer shall furnish such information and advice as may be requested by persons interested in the construction, maintenance, and marking of public highways. They shall at all times lend their aid in promoting highway improvement throughout the state.

Agreements concerning effects of weight on highways.

Section 4-111. **Agreements concerning effects of weight on highways.** (1) The commission may contract with the United States or any state or group of states, or agencies thereof, or any nonprofit association, on a joint or cooperative basis, to study, analyze, or test the effects of weights on highways. Studies or tests shall seek solutions to the problems connected with the imposition of motor vehicle weights on highways.

(2) Studies or tests may be made either by designating existing highways or by constructing test strips, including natural resource roads.

Seeding along highways.

Section 4-112. **Seeding along highways.** (1) After a federal-aid or state highway is constructed, the commission shall seed borrow pits, slopes and shoulders to an adaptable perennial grass or combination of perennial grasses and legumes whenever establishment of perennial grass covers seem suitable. The seed shall be certified.

(2) The commission shall seek joint recommendations and specifications as to time and method of seeding, fertilizing practices and grass species from the Montana extension service, the experiment station, and the soil conservation service.

Description and plan of new highway or controlled access facility—recording.

Section 4-113. **Description and plan of new highway or controlled access facility—recording.** (1) Whenever the commission shall establish the location width, and lines of any new or proposed highway, or declare any road, street or highway as a controlled access facility, it shall make a description and plan showing the center line and the established width.

(2) That description and plan and an attached certified copy of the commission resolution establishing the location shall be recorded in the office of the proper county clerk and recorder in a separate book kept for that purpose. The commission shall, at its expense, furnish each county clerk and recorder with an appropriate book.

Relocation of utilities facilities —hearings—order.

Section 4-114. **Relocation of utilities facilities —hearings—order.** (1) After appropriate hearings, the commission may make and publish reasonable regulations for the installation, construction, maintenance, repair, renewal, or relocation of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and ap-

pliances (hereafter called "facilities") of any utility in, on, along, over, across, through or under any project on any of the federal-aid systems.

(2) The commission shall give written notice of the place and time of a public hearing to determine the necessity of any relocation of facilities to all concerned not less than twenty (20) days before the hearing. Hearing may be waived in writing by the utility concerned or other interested parties.

(3) After the hearing, the commission may determine that any such facilities must be relocated. If so, the utility owning or operating the facilities shall relocate them in accordance with the valid order of the commission. The utility and its successors and assigns may maintain and operate the relocated facilities, with the necessary appurtenances, in the new location.

Section 4-115. **Relocation — costs.** Seventy-five per cent (75%) of all costs of relocation, including the costs of acquisition of new right of way, of dismantling, and of removal, shall be paid by the commission as a cost of highway construction.

Relocation—costs.

Section 4-116. **Relocation — definitions.** For the purposes of the sections relating to relocation of utilities facilities, terms are defined as follows: (1) Utility—Includes publicly, privately, and cooperatively owned utilities.

Relocation—definitions.

Utility.

(2) Cost of relocation—Includes the entire amount paid by the utility properly attributable to the relocation after deducting any increase in the value of the new facility and any salvage value derived from the old facility.

Cost of relocation.

(3) Federal-aid systems—Includes the federal-aid primary system, the federal-aid secondary system, the federal-aid interstate system, and urban extensions of all of them.

Federal aid systems.

(4) Interstate system—Includes any highway now included or which shall hereafter be included as a part of the National System of Interstate and Defense Highways, provided for in the Federal-Aid Highway Act of 1956 and supplements or amendments.

Interstate system.

Section 4-117. **Certification and payment of claims.** (1) All accounts and expenditures shall be certified by the state highway engineer and paid by the state treas-

Certification and payment of claims.

urer upon warrants drawn by the state auditor out of the proper funds.

(2) The commission shall certify the fund against which the warrant is to be drawn and state the project to which the payment will apply.

(3) The commission shall keep accounts showing the amount of money received for each project and the itemized expenses therefor.

Prosecution
for violation.

Section 4-118. **Prosecution for violation.** The commission shall prosecute any person guilty of violation of this Code.

State highway
engineer and other
employees.
State highway
engineer.

Part 2. State Highway Engineer and Other Employees.

Section 4-201. **State highway engineer** (1) The commission may appoint a professional engineer to be known as the "state highway engineer," and shall fix his salary.

(2) The state highway engineer shall perform any acts or duties relating to the functions of the commission which the commission may impose.

(3) The engineer shall take and file the constitutional oath of office before entering upon the performance of his duties, and shall give a bond in such sum as the commission may require.

(4) The commission may remove the engineer at any time for cause.

Commission
—employees
—salaries.

Section 4-202. **Commission—employees—salaries.** (1) The commission shall employ such personnel as it shall deem necessary and fix their compensation. Compensation shall be paid from funds deposited to the credit of the commission.

(2) The commission may, in its discretion, assign personnel for service to any county at the request of the board of county commissioners. The expense of this service shall be paid to the commission by the county.

Division of
maintenance
and control.

Section 4-203. **Division of maintenance and control.** The commission may organize and operate a division of maintenance and control to maintain highways constructed by the state and, by cooperation with boards of county commissioners, such other highways as the commission may deem necessary.

Part 3. Distribution and Apportionment of Highway Construction Funds.

Section 4-301. **Distribution and use of proceeds of gasoline dealers' license tax.** One percent (1%) of all money received in payment of license taxes under the provisions of this act shall be deposited in the state park account in the earmarked revenue fund. All other money received, except that amount paid out of the state board of equalization's suspense account for gasoline tax refund shall be used and expended by the state highway commission on the federal-aid highways in this state selected and designated under the provisions of the federal aid act, approved July 11, 1916, and the federal highway act, approved November 9, 1921, and all amendments thereto, and on highways leading from each county seat in the state to said federal highway system of federal-aid roads where such county seat is not on said system, and on such other roads as have been or may be authorized by the laws of Montana, for the collection and enforcement of this act, pursuant to the provisions of Article XII, Section 1 (b) of the constitution of the state of Montana. It shall be the duty of the state highway commission, in expending such money, to carry forward construction from year to year, using the money expended through the matching up of federal-aid allotments to Montana upon the said federal highway system of highways in the various parts of the state in accordance with the provisions of sections 4-308 through 4-310; provided that nothing in this act shall be construed to conflict with said federal-aid highway acts and the rules by which they are administered. The state highway commission is authorized to enter into cooperative agreements with the national park service and the bureau of public roads for the purpose of maintaining national park approach roads in Montana.

Money credited to the state park account in the earmarked revenue fund shall be used only for the creation, improvement, and maintenance of state parks where motor boating is allowed. The legislative assembly hereby finds as a fact that of all the fuel sold in the state of Montana for consumption in internal combustion engines, not less than one per centum (1%) is used for propelling boats on waterways of this state.

Section 4-302. **Limitation on Expenditure.** (1) The cost to the state for administration, dissemination of pub-

Distribution and
apportionment of
highway construc-
tion funds.

Distribution and
use of proceeds of
gasoline dealers'
license tax.

Cooperative
agreements.

Funds—state
park account.

Limitation on
expenditure.

lic information, and engineering on the systems of federal-aid highways shall not exceed for any fiscal year eight per cent (8%) of the total of state, federal-aid, and other available funds expended under the supervision of the commission.

(2) The annual expenditure for dissemination of public information shall not exceed one hundred and twenty-six thousand five hundred dollars (\$126,500).

Districts for
apportionment of
commission funds.

Section 4-306. **Districts for apportionment of commission funds.** All money available to the commission for highway construction purposes shall be apportioned among these financial districts, each composed of the counties named:

Districts—
counties.

District 1. Lincoln, Flathead, Lake.

District 2. Glacier, Toole, Liberty, Hill, Blaine.

District 3. Phillips, Valley, Daniels, Sheridan, Roosevelt.

District 4. McCone, Richland, Dawson, Prairie, Wibaux.

District 5. Fergus, Garfield, Petroleum.

District 6. Pondera, Teton, Chouteau, Cascade, Judith Basin.

District 7. Lewis and Clark, Jefferson, Broadwater.

District 8. Sanders, Mineral, Missoula, Ravalli, Granite, Powell.

District 9. Beaverhead, Deer Lodge, Silver Bow, Madison.

District 10. Park, Gallatin, Sweet Grass, Meagher, Wheatland.

District 11. Golden Valley, Musselshell, Stillwater, Yellowstone, Carbon, Big Horn, Treasure.

District 12. Rosebud, Custer, Fallon, Powder, River, Carter.

Construction or
reconstruction
of bridges.

Section 4-307. **Construction or reconstruction of bridges.** (1) The commission may allocate from state construction moneys available for the federal-aid highway system up to one million dollars (\$1,000,000) in any fiscal year for the construction or reconstruction of any

major bridge or system of bridges on the primary or secondary highway systems. This may be done only when the use of regularly apportioned funds would prohibit or seriously delay the orderly and necessary highway construction program in the financial districts.

(2) When the commission, as a part of its finding of public necessity, declares that a particular bridge should be constructed or reconstructed on a designated portion of the primary or secondary highway, the allocation may be made. The allocation may be expended:

(a) On primary bridges when the engineer's estimate of the cost of construction or reconstruction is in excess of five hundred thousand dollars (\$500,000).

Primary bridges.

(b) On secondary bridges when the engineer's estimate of the state's share of the cost of construction or reconstruction is in excess of the total estimated future regular apportionment of state construction moneys to the federal-aid secondary system of the county or counties for a period of three (3) years.

Secondary bridges.

(3) The allocation shall be made from available state construction moneys for the primary system before the apportionment provided for in section 4-309, and for the secondary system before the apportionment provided for in section 4-310.

Section 4-308. **Apportionment of state construction funds.** Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion available state construction funds to the various federal-aid highway systems as may be required to match the amounts of federal aid available for expenditure on each respective system.

Apportionment of
state construction
funds.

Section 4-309. **Apportionment of state funds to federal-aid primary highway system.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall determine the amount of incompletable mileage of the federal-aid primary system within each of the financial districts.

Apportionment of
state funds to
federal-aid
primary highway
system.

(a) As a basis for determination of incompletable mileage, the commission shall compare the present condition of the system with the latest approved state standards. Any mileage failing to meet those standards shall

be included in the determination as partially completed. The proportion of completion shall be determined by estimating the amount of work which must be performed to complete the highway.

(2) The commission shall then compute the ratio between the incompleting mileage in each district and the total incompleting mileage of the federal-aid primary system in the state.

(3) The commission shall then apportion available state construction funds to the federal-aid primary system in each district on the basis of the computed ratio.

Apportionment of state funds to federal-aid secondary highway system.

Section 4-310. **Apportionment of state funds to federal-aid secondary highway system.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion available state construction funds for the federal-aid secondary highway system among the financial districts. The proportion which each district shall receive shall be computed on the following basis:

(a) One-fourth ($\frac{1}{4}$) in the ratio of land area in each district to the total land area in the state.

(b) One-fourth ($\frac{1}{4}$) in the ratio of the rural population in each district to the total rural population in the state.

(c) One-fourth ($\frac{1}{4}$) in the ratio of the rural road mileage in each district to the total rural road mileage in the state.

(d) One-fourth ($\frac{1}{4}$) in the ratio of value of rural lands in each district to the total value of rural lands in the state.

(2) Funds apportioned to each district shall be further apportioned to each county therein on the same basis, considering ratios of land area, rural population, rural road mileage, and value of rural lands. To the extent necessary to permit orderly programming and construction of projects, expenditures in any county may exceed the amount apportioned to that county to the extent of three (3) times the amount of the last apportionment thereto. The amount of any such excess expenditures shall be deducted from future apportionments to that county.

(3) For the purposes of this section, terms are defined as follows:

(a) **Rural population**—Total population less the population in cities over five thousand (5,000) persons and their unincorporated fringe urban areas as reported in the latest federal census. Rural population.

(i) Federal census population figures shall be adjusted in the interim between censuses in accordance with the percentage of change in annual motor vehicle registration figures for each county.

(b) **Rural road mileage**—All road mileage outside of incorporated cities, exclusive of road mileage on the federal-aid primary highway system and the federal-aid interstate system. Rural road mileage.

(i) Rural road mileage reported by the road inventory of the commission shall be used in determining rural road mileage.

(c) **Value of rural lands**—Includes the value of state owned lands from which the state derives grazing, timber, and agricultural income. Value of rural lands.

(i) The basis for the value of rural lands shall be computed from the latest biennial report of the state board of equalization.

(ii) The basis for the value of state owned lands shall be computed from the latest figures on the total grazing, timber, and agricultural lands in each county contained in the latest biennial report of the commissioner of state lands and investments.

(iii) The average value of privately owned lands shall be the average value of state owned lands, if the actual value is not available.

Section 4-311. **Secondary highway information.** On or before August 30 of each year, the commission shall inform each board of county commissioners of: (1) The total amount of secondary highway funds and the amount apportioned to each county. Secondary highway information.

(2) The location of proposed secondary highway projects when the information is available.

(3) Such other matters regarding secondary highway construction as the commission deems advisable and of interest to the counties.

Apportionment of state funds to federal-aid interstate highway system.

Section 4-312. **Apportionment of state funds to federal-aid interstate highway system.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion available state construction funds for the federal-aid interstate highway system among the financial districts.

(2) The apportionment shall be based upon the ratio between the estimated cost of constructing or reconstructing the system in each district and the estimated cost of constructing or reconstructing the entire system within the state.

(3) The cost estimates to be used shall be those developed by the commission in accordance with the provisions of the federal-aid highway act of 1956, as amended.

Increases in expenditures.

Section 4-313. **Increases in expenditures.** (1) The commission may increase the expenditures made in any financial district to the extent of:

✕ (a) Fifteen per cent (15%) more than the amount of money allocated to such district in the latest year for the federal-aid primary system or the federal-aid secondary system.

(b) One hundred per cent (100%) more than the amount of money allocated to such district in the latest year for the federal-aid interstate highway system.

(2) The allocation of available state construction funds to any district for the next succeeding fiscal year shall be decreased by an amount equal to any increased expenditures.

Apportionment of state funds to federal-aid urban highways.

Section 4-314. **Apportionment of state funds to federal-aid urban highways.** (1) Annually, beginning July 1, 1965, and at the beginning of each fiscal year thereafter, the commission shall apportion state construction funds available for matching federal-aid urban funds to the cities in the state over five thousand (5,000) population in the ratio of urban population in each such city to the total urban population in all cities over five thousand (5,000) population in the state.

"Urban population."

(2) For the purpose of this section, "urban population" is defined as population within the incorporated limits of cities over five thousand (5,000) population and

that population within unincorporated urban fringe areas delineated and reported in the latest federal census.

(3) To the extent necessary to permit orderly programming and construction of projects, expenditures in any city may exceed the amount apportioned to that city. The amount of any such excess expenditures shall be deducted from future apportionments to that city.

Part 4. Montana Toll Bridge Authority.

Montana toll bridge authority.

Section 4-401. **Creation of authority—members—salary—officers—seal.** (1) There is hereby created the Montana toll bridge authority, composed of members of the commission, who shall receive no compensation other than that received as members of the commission.

Creation of authority—members—salary—officers—seal.

(2) The chairman of the commission shall be the chairman of the authority, and the state highway engineer shall be the secretary-treasurer. All contracts, bonds, and other instruments shall be executed in the name of the authority by the chairman and attested by the secretary-treasurer.

(3) The authority shall adopt a seal bearing its name which shall be affixed to such bonds, instruments, and records as the authority or the chairman may direct.

Section 4-402. **Powers of authority.** (1) The authority shall adopt rules and regulations for its own government and for the administration of this part and the execution of the powers and duties hereby conferred.

Powers of authority.

(2) The authority may establish and construct a toll bridge or toll bridges upon any of the public highways of this state, together with approaches, wherever found and determined to be necessary for advantageous, and practicable for crossing any stream or body of water.

(3) The authority may issue toll bridge revenue bonds to pay the cost of any toll bridge.

Section 4-403. **Resolution—estimates of costs.** (1) Whenever the authority finds and determines that the construction of any toll bridge is necessary, advantageous, and practicable, it shall adopt a resolution making such finding and determination and declaring that public convenience and necessity require the construction of the toll bridge.

Resolution—estimates of costs.

Preliminary estimates.

(2) The resolution shall contain preliminary estimates of:

- (a) The cost of construction.
- (b) The amount of money to be raised by the issuance of revenue bonds.
- (c) The probable amounts of money, property materials, or labor, if any, to be contributed from other sources in aid of construction.

(3) The authority shall also estimate the costs of maintaining, repairing, and operating the toll bridge, and the revenues to be derived from it.

(4) No toll bridge shall be constructed unless the authority first finds and determines that the probable revenues will be sufficient to pay the costs of maintaining, repairing, and operating it, and to pay the principal and interest on revenue bonds issued to pay its costs.

(5) The failure of the authority to make the estimates required by this section or to make them in proper form shall in no way affect the validity or enforceability of any revenue bonds.

Limitations on placing of toll bridges—petition for exception.

Section 4-404. Limitations on placing of toll bridges.

(1) No toll bridge shall be authorized or constructed over or across any stream within a radius of fifty (50) miles of either side of any free public bridge existing on that stream unless there shall first have been filed with the authority a petition requesting its construction.

(2) The petition shall be signed by:

(a) Not less than twenty per cent (20%) of the tax-paying freeholders whose names appear on the last completed assessment roll of the county in which the toll bridge is proposed to be constructed; or

(b) Not less than twenty per cent (20%) of the tax-paying freeholders whose names appear on the last completed assessment roll of both counties when the toll bridge is proposed to be constructed upon a stream which constitutes the boundary between two (2) counties.

Contents of petition.

Section 4-405. Contents of petition. (1) The petition shall contain a statement showing the location of the proposed toll bridge and the locations of all free public

bridges existing upon the same stream within a radius of fifty (50) miles of the proposed toll bridge. It shall also contain a concise statement of facts showing that the proposed construction is necessary, advantageous, and practicable.

(2) Several copies of the petition identical in form may be circulated. Each person circulating a copy must attach his affidavit that the signatures appearing thereon are genuine and that the signers knew the contents at the time of signing.

(3) All copies from each county shall be attached together as to form a single petition. The petition shall have attached to it before it is filed with the authority a certificate of the county clerk and recorder showing whether or not it has been signed by not less than twenty per cent (20%) of the taxpaying freeholders whose names appear on the last completed assessment roll of the county.

(4) The county clerk and recorder shall transmit the petition to the authority.

Section 4-406. Action by authority on petition (1) The authority shall meet and consider the petition within thirty (30) days after it is filed. It shall be the sole judge of the sufficiency of the petition.

Action by authority on petition.

(2) If the authority finds that the petition bears the required number of signatures and is in proper form, and finds and determines that the construction of the proposed toll bridge is necessary, advantageous, and practicable, it shall adopt a resolution making that finding and determination. The resolution shall also contain the estimates and data required by section 4-403.

(3) The authority's finding of the sufficiency of the petition shall be conclusive in favor of any innocent holder of bonds issued as a result of the presentation of the petition.

Section 4-407. Powers of authority in connection with toll bridge bond issues. (1) In connection with the issuance and in order to secure the payment of toll bridge bonds, the authority may:

Powers of authority in connection with toll bridge bond issues—issuance and payment.

(a) Pledge all or any part of the tolls, income, profit, and revenue of any such toll bridge, and covenant to pay

such tolls, income, profit, and revenue into appropriate funds.

(b) Covenant to fix and establish such tolls, rates, and charges as will provide at all times enough funds to:

(i) Pay all costs of operation, maintenance, and repairs of the toll bridge.

(ii) Meet and pay the principal of and interest on all toll bridge bonds as they severally become due and payable.

(iii) Create such reserves for the principal and interest of such bonds and to meet contingencies in operation and maintenance as the authority shall determine.

(c) Make such additional covenants as to tolls, rates and charges as it shall deem necessary to secure the payment of bonds.

(2) No truck, trailer, or automobile licensed in the name of the state of Montana or the United States or any branch or department thereof shall be required to pay for crossing any toll bridge.

Section 4-408. **Same.** (1) The authority may create a special fund or funds, in addition to those required by this part, for moneys reserved for principal and interest on bonds and for meeting contingencies in the operation and maintenance of any toll bridge.

(2) It may determine the depository or depositories in which such funds shall be deposited and the manner in which such deposits shall be secured. Any bank or trust company incorporated under the laws of this state may act as a depository and may furnish such indemnifying bonds or pledge such securities as may be required by the authority.

Section 4-409. **Same.** (1) The authority may:

(a) Provide for replacement of lost, destroyed, or mutilated bonds.

(b) Covenant against extending the time for the payment of the principal of or interest on any toll bridge bonds, directly or indirectly in any manner.

(c) Prescribe and covenant as to the events of default and terms and conditions upon which any or all toll bridge

bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(d) Covenant as to the rights, liabilities, powers, and duties arising upon the breach of any covenant, condition, or obligation.

(e) Vest in a trustee or trustees the right to enforce any covenant made to secure or to pay toll bridge bonds, provide for their powers and duties, limit their liabilities, and provide the terms and conditions upon which the trustee or trustees or the holders or any proportion of them may enforce any such covenant.

(2) The authority may make such covenants and do any and all acts and things necessary or convenient or desirable in order to secure toll bridge bonds or to make them more marketable, notwithstanding that such covenants, acts or things may not be enumerated or expressly authorized. The legislative assembly intends to grant to the authority power to do all things in the issuance of toll bridge bonds and in providing for their security that may not be inconsistent with the constitution.

Section 4-410. **Toll charges—fixing—expiration.** (1) The authority may fix and change rates of toll and other charges for all toll bridges built under the provisions of this part. The rates and charges shall at all times be fixed at rates which will yield sufficient annual revenue to pay annual operating and maintenance expenses, to redeem and pay the principal of and interest on all bonds as they severally come due, and to create such reserves as the authority shall deem necessary.

(2) All tolls and other revenue shall constitute a trust fund for the security and payment of toll bridge bonds. They shall not be pledged for any other purpose as long as any of the bonds are outstanding and unpaid.

Section 4-411. **Revenue fund—sinking fund.** (1) The authority shall adopt rules and regulations for the collection of tolls and the deposit thereof to the credit of the appropriate toll bridge revenue fund, and for the transfer therefrom to the appropriate sinking fund of money for the payment and redemption of bonds as they severally mature.

Powers of authority in connection with toll bridge bonds issues—special funds.

Powers of authority in connection with toll bridge bonds issues—covenants.

Toll charges—fixing—expiration.

Revenue fund—sinking funds.

(2) The money remaining in each separate toll bridge revenue fund after providing the amount required for interest and redemption of bonds shall be held and applied in accordance with the proceedings relating to the authorization of the bonds.

Construction.

Section 4-412. **Construction.** Whenever funds are available for the construction of any toll bridge, the commission shall let contracts by competitive bidding, after such notice and upon such terms as it shall prescribe.

State highway engineer—duties.

Section 4-413. **State highway engineer—duties.** The engineer shall have full charge of the construction, operation, and maintenance of all toll bridges authorized by the authority. Under the supervision of the authority, and subject to its rules and regulations, the engineer shall have charge of the collection of all tolls.

Annual statement—records.

Section 4-414. **Annual statement—records.** (1) The engineer shall keep full and complete accounts for each toll bridge constructed. Each year he shall cause to be prepared and filed in the office of the secretary of state a balance sheet and income and profit and loss statement showing the financial condition of each toll bridge.

(2) All books, records, and papers relating to toll bridges shall at all reasonable times be open to the inspection of any citizen of the state.

Limitations on building bridges near toll bridges.

Section 4-415. **Limitations on building bridges near toll bridges.** So long as any of the bonds issued for the construction of any toll bridge are outstanding and unpaid, there shall not be erected, constructed, or maintained any other bridge for public use over or across the stream upon which the toll bridge is located within a distance of twenty (20) miles on either side of the toll bridge. This prohibition does not apply to bridges in existence and being used at the time of the issuance of such bonds.

Payment of bonds—free bridge.

Section 4-416. **Payment of bonds—free bridge.** When the bonds issued for the purpose of paying the cost of any toll bridge are retired, the cost of construction having thereby been repaid in full, the bridge shall thereafter be maintained and operated by the commission as a free bridge. The expense of any surveys and reports paid from the funds of the commission shall then be deemed fully repaid.

CHAPTER 5. COUNTY ADMINISTRATION.

Part 1. Board of County Commissioners Responsibility for County Roads.

Section 5-101. **Powers and duties of county commissioners respecting county roads.** (1) Each board of county commissioners shall have general supervision over the county roads within the county. The board may, in its discretion, divide the county into suitable road districts, and place each district in charge of a competent road supervisor. The board shall order and direct each supervisor in the work to be done in his district. If the board does not divide the county into districts, the county itself shall constitute one road district.

(2) Each board shall cause to be surveyed, viewed, laid out, recorded, opened, worked, and maintained such county roads as are petitioned for by freeholders. Guideposts shall be erected.

(3) Each board shall discontinue or abandon county roads when freeholders properly petition therefor.

(4) Each board may, in its discretion, cause to be done whatever may be necessary for the best interest of the county roads and the road districts.

(5) Each board shall make such reports relating to roads under its supervision as may be requested by the commission.

Section 5-102. **Same—right of way—contracts—control of traffic.** (1) Each board shall contract, agree for, purchase, or otherwise lawfully acquire right of way for county roads over private property. It may institute proceedings under sections 93-9901 - 93-9926, paying for such right of way from the county road fund. Cattle guards, appurtenances, and gates may be constructed and maintained adjacent to county roads.

(2) Subject to the limitations and restrictions provided in the Codes for the letting of contracts, each board may let by contract the construction, maintenance and improvement of county roads, and the construction, maintenance, or repair of bridges when the amount of work to be done exceeds the sum of one thousand dollars (\$1,000).

(3) Subject to the limitations and restrictions provided in the constitution and Codes, each board may

County administration.

Board of county commissioners responsibility—county roads.

Powers and duties of county commissioners—county roads.

Same—right of way—contracts—control of traffic.

issue bonds upon the faith and credit of the county for the construction or improvement of county roads, state highways, and bridges.

(4) Each board may, in its discretion, limit or forbid, temporarily, any traffic or class of traffic on the county roads or any part thereof, when it is necessary in order to preserve or repair such roads.

Same—surveyor
—employees.

Section 5-103. **Same—surveyor—employees.** (1) Each board may, in its discretion, order the county surveyor, or some other surveyor if the county surveyor is incompetent,, to prepare suitable plat books. Each board shall have recorded therein with the county clerk a full description of each county road, showing each course by bearing and distance, a full and complete map thereof, and a record of all proceedings with reference thereto.

(2) Each board may, in its discretion, employ a competent road supervisor, who shall serve during the pleasure of the board. Under the direction and control of the board he shall:

(a) Prescribe the times and places for all work to be done on the county roads.

(b) Report any delinquency or inefficiency of any person employed on any road.

(c) Perform such other duties as may be prescribed by the board.

(3) In any county in which the county surveyor is not paid an annual salary, he may by agreement be employed by the board to perform the services of road supervisor. He shall not be paid for any duty otherwise required by law to be performed by him as county surveyor.

(a) Nothing in this section shall be construed to alter or repeal the provisions of sections 5-308 and 5-309 of this chapter.

(4) Each board may appoint a county road superintendent. He shall have such duties, powers, and responsibilities as are set forth in part 3 (b) of this chapter.

Same—contracts
with state or
federal agency.

Section 5-104. **Same—contracts with state or federal agency.** Whenever construction of farm to market, secondary, or feeder roads is to be financed in whole or in

part by federal funds, and the United States secretary of commerce shall affirmatively find that some method other than competitive bidding is in the public interest, each board may:

(1) Enter into and contract jointly or independently with either the commission, the bureau of public roads, or any other federal agency to:

(a) Acquire rights of way.

(b) Survey and construct such roads.

(c) Do any other thing essential and practical in securing such roads by force account, unit price, or otherwise.

Section 5-105. **Inspection of roads and construction work—compensation.** (1) The board may direct the county surveyor or some member or members of the board to inspect the condition of any road. It may direct such persons to inspect any work, being done under contract or otherwise, which is under the direction, supervision, or control of the board. Such inspections may be made before any work is commenced, during its progress, or after completion and before payment.

Inspection of roads
and construction
work—compensa-
tion.

(2) The person or persons making such inspections shall receive the sum of fifteen dollars (\$15) per day and actual expenses. The claims shall be audited and allowed in the same manner as other claims against the county.

(3) Proper minute entries of such inspections must be made by the surveyor or board member or members at the next regular meeting of the board.

Section 5-106. **Same—purchase of machinery and materials.** (1) Out of the county road fund, each board may:

Same—purchase
of machinery
and materials.

(a) Purchase and operate grading and other machinery necessary or desirable for the improvements of the county roads.

(b) Acquire deposits or quarries of suitable road-building material by purchase, condemnation, or lease.

(2) Each board may also acquire such road-building material by gift.

(3) Any crushed rock or gravel not directly used or needed by the county in the construction, repair, or main-

tenance of its roads, may be sold by the board at not less than actual cost of production to any person, firm, or corporation desiring to use it upon any public street or highway in the county. The proceeds of any such sale shall be paid into the county road fund.

Same—use of county road machinery.

Section 5-107. Same—use of county road machinery. Each board may, in its discretion, authorize and permit the use of any county highway or road machinery or equipment when not in use in any district, in connection with the construction, repair and maintenance of streets, avenues and alleys within any incorporated city or town of four thousand (4,000) population or less located in the county.

Width of road.

Section 5-108. Width of road. (1) The width of all county roads, except bridges, alleys, or lanes, must be sixty (60) feet unless a greater or smaller width is ordered by the board on petition of an interested person.

(2) The width of all private highways and byroads, except bridges, must be at least twenty (20) feet.

(3) Nothing in this section shall be construed as increasing or decreasing the width of either kind of highway or road already established or used as such.

Highways to follow subdivision or section lines.

Section 5-109. Highways to follow subdivision or section lines. County roads must be laid out and opened when practicable upon subdivision or section lines. However, when public purposes shall be best served thereby, roads may be laid out in diagonal lines.

Auto passes excluding livestock.

Section 5-110. Auto passes excluding livestock. Where a county road connects with a state or federal highway which is fenced on both sides, the board may construct and maintain extensions of the fence across the right of way of the intersecting county road. The board shall construct a pass which will permit passage of vehicles but will prevent loose livestock from passing onto the state or federal highway. In the extensions of the fence, there shall be maintained a gate to permit the passage of livestock and vehicles.

Same—on county roads.

Section 5-111. Same—on county roads. Each board may construct on county roads passes which shall permit the travel of vehicles but which shall prevent the passage of loose livestock. Where necessary, gates shall be main-

tained to permit the passage of livestock. Such passes may be removed when, in the judgment of the board, the need therefor no longer exists.

Section 5-112. Limit on amount expended in road district. The expenditures in any road district for labor and equipment, together with the compensation to be paid to the supervisor, shall not exceed the sum apportioned quarterly by the board to that district. However, if that sum is not sufficient, the board may appropriate any amount from the county road fund necessary for the use of such district. The full amount of all road taxes collected in remote districts shall be expended annually by the county commissioners on the roads within such districts.

Limit on amount expended in road district.

Section 5-113. Reseeding of right of way areas. (1) Whenever the natural sod cover on right of way areas is disturbed by construction of county roads, irrigation ditches, drain ditches, or otherwise, the board shall require that such disturbed areas be seeded to an adaptable perennial grass or combination of perennial grasses and legumes. Every effort shall be made to establish a sod cover on the disturbed area.

Reseeding of right of way areas.

(2) All seed used shall meet certified standards.

(3) Time and method of seeding, fertilizing practices, and grass species shall be those recommended by the Montana extension service.

Section 5-114. County supervisors to control weeds and exterminate weed seeds—charges. The board of weed control and weed seed extermination supervisors shall control noxious weeds on the county roads. If the commission does not control noxious weeds on state and federal highways in any county, the supervisors shall control them. Upon presentation by the supervisors of a verified account of the expenses incurred, the costs thereof shall be paid by the commission.

County supervisors to control weeds and exterminate weed seeds—charges.

Section 5-115. Board and others to furnish information. The board and road supervisor of any county, and all other officers who may have the care and supervision of the public highways and bridges, shall, upon the written request of the commission, furnish all available information in connection with the construction and main-

Board and others to furnish information.

tenance of the highways and bridges in their respective districts or counties.

Part 2. Board of County Commissioners Responsibility For Bridges and Ferries.

Section 5-201. County to Maintain Bridges. Each board shall maintain all public bridges other than those maintained by the commission.

Section 5-202. Bridges Over Streams in Cities and Towns. (1) Each board shall construct and maintain every bridge over a natural stream necessary to be constructed and maintained in any city or town.

(2) The city or town in which any such bridge is situated shall pay the whole or such part, not less than one-half ($\frac{1}{2}$), to be determined by the board, of the cost of planking, replanking, paving or repaving the bridge. The city or town shall construct and maintain in good repair the bridge approaches.

Section 5-203. Election to Determine Question of Construction — Bonds — Special Levy. (1) Before undertaking the construction of any bridge the cost of which shall exceed ten thousand dollars (\$10,000), in any city or town, the board shall submit to the qualified electors of the county, at a general or special election, the question of whether the bridge shall be constructed and its cost paid by the county.

(2) If the electors vote in favor of construction, the board may issue and sell bonds of the county to the amount authorized for the construction of the bridge. Bonds shall be issued under such regulations as apply to other bonds of the county.

(3) The bridge shall be constructed using the proceeds of such sale.

(4) If the cost of the bridge does not exceed the amount authorized to be raised by a special tax, it may be levied as provided in section 7-104 of this Code.

Section 5-204. Removal of Obstructions and Repair of Bridges. (1) Whenever any county road becomes obstructed, or any bridge needs repair or becomes dangerous for the passage of vehicles or persons, the board or the county surveyor, if he is in charge, shall remove the

obstruction or repair the bridge, upon being notified thereof.

(2) Nothing in this section shall be construed as holding the board, or any member, responsible or liable for anything other than willful, intentional neglect or failure to act.

Section 5-205. Bridges Under Control and Management of Board—Police Regulations. (1) The board shall manage and control all bridges referred to in this part. It shall direct the method and time of making repairs, planking, replanking, paving and repaving.

(2) The board may also make repairs to stream beds and watercourses and the banks thereof when any bridge is in danger of being damaged or lost because of erosion or changes in the beds or banks.

(3) Such bridges and all persons on them shall be subject to the reasonable police regulations of the city or town in which any such bridge is situated.

Section 5-206. Construction and Maintenance of Bridges Crossing County Lines. Bridges crossing the line between counties shall be constructed and maintained by the counties into which the bridges reach. Each county shall pay such portion of the costs of construction and maintenance as shall have been previously agreed upon by the respective boards.

Section 5-207. Ferries Uniting Two Counties—Report of Ferrymen on Joint Ferries. (1) When a public ferry, if constructed would unite two counties, the boards may act jointly to construct, maintain, and operate it. Each county shall acquire and maintain its own landings and approaches.

(2) When ferrymen are employed on joint ferries, they shall report quarterly to each board, giving such information as each board may require.

Part 3. County Road Superintendent.

Section 5-301. County Road Superintendent — Appointment and Compensation. (1) After his appointment, the county road superintendent shall serve at the pleasure of, and under the direction and control of the board. He shall file with the county clerk the customary

Bridges under control and management of board—police regulations.

Construction and maintenance of bridges crossing county lines.

Ferries uniting two counties—report of ferrymen on joint ferries.

County road superintendent—appointment and compensation.

oath of office and a bond approved by the board for the faithful performance of his duties.

(2) He shall receive such compensation as is determined by the board.

Duties of county road superintendent.

Section 5-302. Duties of County Road Superintendent.

(1) Under the direction and supervision of the board, the superintendent shall furnish plans and specifications for highway or bridge work. He shall be chairman of all boards of road viewers.

(2) Under such direction and supervision, he shall also:

(a) Take charge of all roads, bridges and causeways under the jurisdiction of the county.

(b) Open all new roads when they are duly established and ordered to be opened by the board.

(c) Perform at the time and in the manner directed by the board whatever shall be lawfully directed by the board concerning the public highways under the jurisdiction of the county.

Same—accounts and statements.

Section 5-303. Same—Accounts and Statements. The superintendent shall keep correct accounts of all labor performed, equipment and implements used, and materials furnished. He shall give to each person performing work, or furnishing equipment, implements, or materials a certificate stating the work performed and the price to be paid therefor.

Examination of superintendent's report—warrant for claims.

Section 5-304. Examination of Superintendent's Report—Warrant For Claims. At the first monthly or quarterly meeting held after filing of the superintendent's report, the board shall examine it. Upon the presentation of any certificate issued by the superintendent, and verification of it by the holder, as in other cases of claims against the county, the board shall cause to be issued a warrant for the amount of the certificate drawn on the treasurer against the county road fund.

Equipment, tools, and implements for use of superintendent.

Section 5-305. Equipment, Tools, and Implements For Use of Superintendent. Upon the requisition of the superintendent, the board shall furnish any equipment, tools, and implements necessary, and pay for them out of the county road fund. The superintendent shall pre-

serve the equipment, tools, and implements, and shall not allow them to be used except on public highways. At the expiration of his term of office, or upon his removal therefrom, he must turn over all equipment, tools, and implements to his successor or to the board.

Section 5-306. Employment of Laborers, Hiring of Equipment, Etc. Whenever it is necessary, the superintendent may employ suitable laborers, hire equipment and implements, and contract as to the wages and prices to be paid. Wages and prices shall not exceed rates established by the board for an eight-hour day.

Employment of laborers.

Section 5-307. Construction of Drains and Ditches—Penalty For Obstructions. (1) The superintendent may open or construct drains and ditches for making and preserving roads and highways, doing as little injury as may be possible to the adjoining land.

Construction of drains and ditches—penalty for obstructions.

(2) Any person who stops or obstructs any drain or ditch so constructed forfeits the sum of fifty dollars (\$50), to be recovered by the superintendent or board in a civil action in any court of competent jurisdiction.

(3) Any person aggrieved by the act of the superintendent may make a written complaint to the board, which if it finds the complaint valid, may pay damages out of the county road fund.

Part 4. Local Improvement Districts.

Section 5-401. Duty of Board to Construct Roads and Levy Assessments. (1) Upon proper petition, as hereinafter provided, the board shall cause county roads to be laid out, opened, constructed and improved.

Local improvement districts.

(2) The board shall levy and cause to be collected an assessment upon all parcels of land specifically benefited by the laying out, opening, construction, or improvement for paying the costs thereof.

Duty of board to construct roads and levy assessments.

(3) The assessment shall be a first lien upon the land liable, prior and superior to all other liens and encumbrances.

(4) The board shall provide for the payment of assessments either on the immediate payment plan or by installments.

(5) The board shall issue local improvement district bonds and coupons for each installment.

Petition for
construction or
improvement
of road.

Section 5-402. **Petition For Construction or Improvement of Road.** (1) A petition for laying out, opening, constructing, or improving a county road may be presented to the board by the owners of two-thirds (2/3) of the lineal feet of land fronting on the proposed or existing road.

(a) If any such land stands in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator, or guardian shall be equivalent to the signature of the owner.

Petition to
set forth.

(2) The petition must set forth:

(a) That the petitioners are such owners and that they desire the petitioned action.

(b) The kind and nature of the improvement desired.

Payment.

(c) The mode of payment of the assessments to be levied for defraying the cost thereof.

(d) The portion of the costs which the district, if formed, will assume and pay.

(i) It must not be less than thirty-five per cent (35%) of the costs, and may be as much as seventy-five per cent (75%) thereof.

Resolution of
public interest.

Section 5-403. **Resolution of Public Interest.** Upon receipt of the petition, the board shall pass a resolution that the public interest demands the laying out, opening, constructing or improving of the road, or part thereof, described in the resolution. The description shall not include any portion of any road within the boundaries of any city or incorporated town.

Proceedings upon
receipt of petition.

Section 5-404. **Proceedings Upon Receipt of Petition.** (1) After receipt of the petition and passage of the resolution, the board shall make an order fixing a time and place in the vicinity of the road for a meeting between the county road superintendent or his deputy and the petitioners and all owners upon whose lands special assessments will be levied.

Notice.

(2) The county clerk shall immediately notify the county road superintendent of the meeting and shall cause a notice thereof to be printed in the newspaper published nearest to the vicinity of the road. The notice

shall be published for three (3) consecutive weeks prior to the time of the meeting.

(3) The notice shall state the time and place of the meeting, and in general terms the kind of construction or improvement sought, and the places of beginning, intermediate points and termination.

Section 5-405. **Proceedings at Meeting.** (1) The petitioners and all owners of land fronting on the road or land owned within two miles on either side of it upon which special assessments will be levied may meet with the superintendent or his duly appointed deputy.

Proceedings
at meeting.

(2) The superintendent or his deputy, or, in their absence one of the landowners present, shall preside. Those present shall elect three as a committee of supervisors; at least one of them shall be a petitioner.

(a) A majority of the owners present and voting shall be sufficient for election. The presiding officer shall certify to the board the names of the owners elected to the committee.

(3) Those elected shall qualify immediately by taking an oath that they are owners of land benefited by the improvements and to be included within the local assessment district. They shall take an oath that they will fully, impartially, and faithfully perform their duties as supervisors.

(4) The superintendent or his deputy may administer the oath, or it may be administered by anyone so authorized by law.

Section 5-406. **Duties of Committee and Road Superintendent.** (1) The committee and the surveyor or his deputy shall:

Duties of com-
mittee and road
superintendent.

(a) Immediately view, examine, and survey the road petitioned for.

(b) Examine and determine the lands which will be specially benefited by the road and which should be included within the district that is to be assessed.

(c) Ascertain whether any damage or injury to property will be sustained by or in consequence of the making of the road.

(d) Obtain, if possible, without cost the release in writing of each person of his claim for such damage or injury.

(e) Arrange, when necessary, for a release to be given for such amount as may be fair and reasonable.

(2) The road superintendent shall without delay prepare plans and specifications and cost estimates. He shall prepare a plat and description of the local assessment district and a description of the parcels of land included in the district. The valuation of the lands shall be that which appears on the last annual assessment-roll of the county for the levying of general taxes.

Report of
county road
superintendent—
order creating
district.

Section 5-407. Report of County Road Superintendent—Order Creating District. (1) At the next annual meeting of the board after the road superintendent has completed surveying the road and making estimates, he shall make a detailed report.

(a) The report shall state that the maps, descriptions, plans, specifications, and details and estimates of damages, costs, and expenses have been completed.

(2) The whole amount of damages, costs and expenses shall not exceed fifty per cent (50%) of the total assessed valuation of the parcels of land in the district, as determined from the last annual assessment roll of the county. If it does not, the board shall make and enter upon the report an order that the road be made.

(3) That order shall create the local improvement district to be known and designated as local improvement district No. _____ in _____ county, Montana. Copies of the report shall be kept in the offices of the board and road superintendent.

Sharing of costs—
order of board.

Section 5-408. Sharing of Costs—Order of Board. The board may enter an agreement to share costs with the district when the petition presented states the proportion which the district will pay. After such an agreement has been made, specifying the amount to be paid by the district and the amount to be paid from county funds, the board shall make an order to that effect on the records of its proceedings.

Payment of
county's share
of expense.

Section 5-409. Payment of County's Share of Expense. The board shall order paid from county funds the share

of the county for construction or improvement of the road. However, payment shall not exceed sixty-five per cent (65%) of the cost. This amount shall be a proper charge against the county and shall be paid by the treasurer upon warrants duly drawn as ordered by the board.

Section 5-410. Formation and Boundaries of District.

Formation and
boundaries of
district.

(1) The boundaries of each local assessment district shall be fixed as follows:

(a) The lands extending from the center of the road one-half ($\frac{1}{2}$) mile on each side thereof [measuring one (1) mile in width] shall constitute "Part One" of the district.

(b) The lands embraced within an area one (1) mile wide on each side of Part One shall constitute "Part Two" of the district.

(c) The lands embraced within an area one (1) mile wide on either side of Part Two shall constitute "Part Three" of the district.

(2) Each of the parts shall extend the full length of the proposed road and one mile beyond the terminus unless the committee shall otherwise provide.

Section 5-411. Assessment of Lands in Each Part—Lien. (1) Each separate parcel of land in Part One shall be assessed for its proportion of forty-five per cent (45%) of the whole cost payable by the district.

Assessment
of lands in each
part—lien.

(2) Each separate parcel of land in Part Two shall be assessed for its proportion of thirty-five per cent (35%) of the cost.

(3) Each separate parcel of land in Part Three shall be assessed for its proportion of twenty per cent (20%) of the cost.

(4) All of the lands in each part shall be subject to a lien for all of the assessments of that part until they have been paid.

Section 5-412. Method of Assessment. (1) The assessments upon the parcels of land in each part shall be made ratably according to the front-foot plan, as follows:

Method of
assessment.

(a) The unit used to determine the proportion of assessment shall be one foot of longitude measured along

the road constituting the center of the district and extending latitudinally across the part.

(b) Because units in each part may not be equal, assessment rates for each part shall be determined for eight hundred eighty (880) square feet of surface.

(2) If the areas of the parts are not equal, the rates fixed for parts one, two, and three shall be related to each other as are the numbers forty-five (45), thirty-five (35) and twenty (20), respectively.

Appointment
of inspector—
compensation of
inspector and
committee.

Section 5-413. Appointment of Inspector—Compensation of Inspector and Committee. (1) The committee and road superintendent together shall appoint some suitable and competent person other than they to act as an inspector of the work. He shall be upon the work at all times during its progress and inspect the performance thereof. He shall report to and be under the supervision of the superintendent.

(2) He shall be paid for his services as inspector at the rate of five dollars (\$5) per day for the time he is actually engaged thereon.

(3) Each supervisor shall be paid the sum of three dollars (\$3) per day for the time the committee is actually engaged in meeting and acting with the superintendent and in transacting the business of the district. No mileage or other expense money shall be paid.

Construction by
county—lien.

Section 5-414. Construction by County — Lien. (1) If bids for construction and improvement are rejected by the committee, the district may contract with the board to construct or improve the road.

(2) Roads in districts may be constructed and improved in the first instance at the entire expense of the county, and the county may, as far as practicable, take the place of a private contractor.

(3) When the county has paid for construction and improvements, it shall be recompensed for by the district in accordance with their agreement. If bonds were issued under the installment plan, they shall become the property of the county.

(4) The county shall have the same lien as if the contract had been let to a private contractor.

Section 5-415. Apportionment of Costs—Assessment-Roll—Contents. (1) When the order for improvement and construction has been made by the board, the committee and the county assessor shall apportion the estimated cost and expenses to the land in the district.

Apportionment
of costs—
assessment-roll
—contents.

(2) Within thirty (30) days before the letting of the contract, the assessor shall report to and file with the board and the treasurer an assessment-roll in duplicate. It shall contain the description of each parcel of land to be assessed, the amount to be assessed against it, and the name of the owner, if known. In no case shall a mistake in the name of the owner be fatal to the assessment when the description of the land is correct.

Section 5-416. Notice — Confirmation — Errors. (1) As soon as the assessment-roll is reported and filed, the board shall publish notice for three consecutive weeks in the newspapers in which notice of invitations for bids for the contract was published. The notice shall notify all persons interested that the assessment-roll has been filed, and require them to appear at the office of the board at the county seat at a time not less than fifteen (15) days from the date of the last publication of the notice to make objections.

Notice—confirma-
tion—errors.

(2) At the time fixed, the board and the assessor shall meet. If no objections have been filed, the board shall make an order confirming the assessment-roll. If written objections, properly verified, have been filed, the board shall hear the objections, receiving any testimony from any party involved.

Section 5-417. Correction of Errors—Lien. (1) After the hearing, the board shall make such corrections as appear just to apportion the assessment to the benefit to be received. It shall then make and enter an order approving and certifying the assessment-roll.

Correction of
errors—lien.

(2) With the aid of the assessor, the board shall levy and assess the amounts on the assessment-roll against the parcels of land, or parts thereof.

(3) The assessment so made shall be a first lien on the land described in the assessment-roll.

Section 5-418. Modes of Payment of Assessment. The petition shall state whether the landowners want to

Modes of payment
of assessment.

make payment by the mode of "immediate payment" or by payments in installments. Installment payments shall be made in six equal portions, in one (1), two (2), three (3), four (4), five (5), and six (6) years. Payments shall be in the form of bonds which shall draw six per cent (6%) interest per annum from the date they are issued until they are paid.

Immediate payment—notice to landowners.

Section 5-419. Immediate Payment—Notice to Landowners. (1) If immediate payment is chosen, the board shall deliver the assessment-roll to the county clerk as soon as it has been proved and certified. The clerk shall file a duplicate in his office and immediately deliver the other to the treasurer.

(2) The treasurer shall publish a notice for two consecutive weeks in the newspapers in which the notice for bids was advertised and shall mail a copy of the notice to the owners of the land assessed, when the name and post office address of the owner are known.

(a) Failure to mail notice shall not be fatal to the assessment when it has been published.

Contents of notice.

Section 5-420. Contents of Notice. The notice shall state the following: (1) The assessment-roll has been certified to the treasurer for collection.

(2) Unless payment is made within thirty (30) days from the date of the notice, the payment will become delinquent and shall bear interest at the rate of ten per cent (10%) per annum.

(3) If the assessment is not paid before it becomes delinquent, a penalty of five per cent (5%) shall be added, as well as the interest on the annual tax roll for the current year.

(4) The interest and penalty shall be collected, together with such additional charges as are authorized to be charged and collected on other delinquent taxes.

(5) The land assessed shall be sold for the amount of the assessment with interest, penalty, and costs, in the manner and with the same authority as lands are sold for general taxes.

Installment payment procedure—county treasurer to collect.

Section 5-421. Installment payment procedure—county treasurer to collect. (1) If the mode of payment is to be by installments, the board and the committee shall approve and certify the assessment-roll.

(2) The board and the assessor shall, at the time of levying the assessment, in their order setting the levy, declare that the sum charged against each parcel of land may be paid in equal annual installments with interest upon the whole sum at the rate of six per cent (6%) per annum. The order shall specify the number of installments which shall be equal to the number of years for which the bonds may run.

(3) Each year thereafter, the treasurer shall collect one of the installments together with the interest due thereon and the interest due on the installments thereafter to become due.

(4) Provisions concerning delinquency and the sale of land set forth with relation to the mode of immediate payment shall be likewise applicable to installment payments.

Section 5-422. Board provides method of payment. When improvement is ordered upon a petition specifying that method of payment of bonds, the board shall provide that the payment of costs and expenses be made under the provisions of this part by bonds charged against the lands in the district. The bonds may be issued to the contractors in payment or costs may be paid by the proceeds of the bonds to be issued and sold as hereinafter provided. In all other cases, the board may so provide.

Board provides method of payment.

Section 5-423. Order for issuance of bonds—form and contents. (1) The board shall make and enter an order authorizing and directing the issuance of bonds payable not more than ten years after the date of issuance.

Order for issuance of bonds—form and contents.

(2) Each bond shall provide that the holder shall not demand payment until it comes due. It shall bear interest at the rate of six per cent (6%) per annum, payable annually, and shall have interest coupons for each interest payment attached.

(3) Each bond and coupon shall bear the date of issuance and be made payable to bearer. Each bond shall be signed by the chairman of the board and attested by the county clerk. The seal of the board shall be affixed to each bond.

(4) Bonds shall be issued in denominations of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000).

(5) Each bond shall contain a reference to the district for which it is issued and to the order and record authorizing the issue. It shall state that it is payable only out of the local improvement funds, created by special assessment, and not otherwise.

(6) On its face, each bond shall bear the designation of the district: "Local Improvement District No. in county, Montana."

(7) No bond shall be issued in excess of the costs and expenses of the improvements and construction.

Notice in case
of payment by
special bonds—
contents.

Section 5-424. Notice in case of payment by special bonds—contents. (1) If the board provides that payment of costs shall be made by the issuance of bonds, the treasurer shall publish notice for two consecutive weeks and mail a copy of the notice in the same manner as is provided with relation to immediate payment.

(2) The notice shall state that:

(a) The assessment-roll has been certified to the treasurer for collection.

(b) Unless payment of the whole amount of the assessment is made within thirty (30) days from the date of the notice, special bonds shall be issued against the lands in the district for the payment of the assessment.

(c) If the bonds are issued, they will be payable in annual installments with interest thereon at the rate provided in the bonds.

Payment of
assessment—
redemption
by payment.

Section 5-425. Payment of assessment—redemption by payment. (1) At any time within thirty (30) days after notice, the owner may pay the assessment and release and discharge his lands therefrom and from the operation and effect of the bonds.

(2) No bonds shall be issued until twenty (20) days after the expiration of thirty (30) days after notice. No bonds shall be issued for any assessment paid in full within the thirty (30) days.

(3) The owner of lands may redeem them from all liability for assessment at any time after the thirty (30) days by paying all of the assessment remaining unpaid, together with interest and all charges thereon to the date of maturity of the installment next falling due.

(4) All payments shall be made to the treasurer, who shall apply them solely to the costs of the improvement or construction.

Section 5-426. Issuance of special bonds to contractor—or sale. Bonds ordered sold by the board may be issued to the contractor constructing the improvement in payment. The board may also direct, in the order providing for issuance of the bonds, that they be sold by the treasurer at not less than par value and accrued interest. The proceeds of such bonds shall be applied in payment of the costs and expenses of the improvement.

Issuance of special
bonds to contractor
—or sale.

Section 5-427. Payment of interest—retirement. (1) The treasurer shall pay the interest on the bonds out of the funds of the district collected on assessments for the bonds.

Payment of
interest—
retirement.

(2) Whenever there is money in the fund against which the bonds have been issued over and above the amount sufficient for the payment of interest on all unpaid bonds, it shall be used to pay the principal on one or more of the bonds. The treasurer shall call in and pay the bonds in their numerical order.

(3) The call shall be published in the county official newspaper on the day following the maturity date of the installment of assessment, or as soon thereafter as practicable. It shall state that special bonds No. (giving the serial number or numbers of the bonds called) of the district will be paid on the day the next interest coupons become due. Interest upon the bonds thus called shall cease upon that date.

Call to state.

Section 5-428. Collection of assessments by suit of owner of bonds. (1) If the treasurer fails, neglects, or refuses to pay bonds or to collect promptly any assessments when due, the owner of any bonds may proceed in his own name to collect the assessments and to foreclose the lien in any court of competent jurisdiction. In addition to the amount of the assessments and interest thereon, any such owner shall recover five per cent (5%) of the costs of his suit.

Collection of
assessments by
suit of owner
of bonds.

(2) Any number of holders of bonds for any single district may join as plaintiffs, and any number of owners of land on which the bonds are a lien may be joined as defendants.

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(3) Neither the holder nor any owner of any bond shall have any claim against the county through which the bond is issued except for the assessment. His remedy in case of nonpayment shall be confined to the enforcement of the assessments.

(4) A copy of this section shall be plainly written, printed, or engraved on each bond.

Auditing and payment of claims and accounts.

Section 5-429. **Auditing and payment of claims and accounts.** (1) The committee shall approve and certify all claims and accounts for services and every kind of expense payable from funds of the district.

(2) The county auditor, or the county clerk in any county which has no auditor shall then audit all such claims and accounts. Thereafter he shall issue to the treasurer an order in favor of the person to whom the claim or account is payable to pay it.

(3) Upon presentation of the order by the person to whom it was issued, or his assignee, the treasurer shall pay it from the funds of the district.

Estimates of work completed—payment therefor.

Section 5-430. **Estimates of work completed—payment therefor.** (1) The surveyor with the approval of the committee shall make estimates of the proportion of the work completed. After auditing, the estimates may be paid by the treasurer to an amount not exceeding eighty percent (80%) during the progress of the work.

(2) If the assessment is payable by installments, the treasurer shall pay the order only from such assessments as shall have been collected prior to the issue of the bonds and from the proceeds of the sales of the bonds after issue.

(3) If the board has ordered that the contractor shall receive bonds in payment, the order for payment shall call for bonds instead of money. The treasurer shall deliver the bonds, dating them the day he delivers them to the contractor. Interest shall run therefrom.

(4) Amounts collected on installment payments of assessments shall be reserved and disbursed by the treasurer for the payment of principal and interest and for the redemption of such bonds.

Disposition of residue of funds.

Section 5-431. **Disposition of residue of funds.** (1) After the payment of the whole cost of construction or

improvement, any money remaining in the county treasury which belongs to the district shall be refunded on demand. A rebate therefrom shall be made on demand to any person who shall not have paid his assessment in full.

(2) Demand shall be made within two (2) years from the date upon which the assessment became due.

(3) Any such money remaining in the county treasury after the expiration of two years for which no demand has been made shall go into the general funds.

CHAPTER 6. STATE FINANCE.

Part 1. Fees: Time for Payment, Expiration, Disposition.

State finance. Fees, time for payment, expiration, disposition.

Section 6-101. **Time for payment of fees—half fee after July first.** A person who owns a motor truck, truck-tractor, trailer, semitrailer, bus, or new passenger motor vehicle and operates it upon the highways of the state shall, at the time he makes application for license as provided in section 53-114, pay any additional fees prescribed in this chapter. A person who makes application for license after the first day of July of any year shall pay one-half ($\frac{1}{2}$) of those fees.

Time for payment of fees—half fee after July 1st.

Section 6-102. **Expiration date.** The fees paid hereunder for every motor truck, truck-tractor, trailer, semitrailer, bus or automobile shall expire on December 31 of each year. Any certificate, registration, or license issued shall be valid only for the period for which issued.

Expiration date.

Section 6-103. **License not transferable.** The certificate, registration or license issued hereunder is transferable only upon transfer of title or interest of the legal owner. It is not transferable to another vehicle. However, if a vehicle is destroyed from any cause, the commission may permit transfer to a replacement vehicle. If a smaller vehicle is purchased, there shall be no refund.

License not transferable.

Section 6-104. **Disposition of fees collected by county treasurer.** At the time of collecting the fees hereinafter provided for, each county treasurer shall retain five per cent (5%) of the fees so collected for the cost of administration. The remaining ninety-five per cent (95%) shall be remitted monthly to the state treasurer for deposit to the credit of the commission. Such remittance shall be

Disposition of fees collected by county treasurer.

made on forms furnished to the county treasurer by the commission.

Deposit of state
highway moneys.

Section 6-105. **Deposit of state highway moneys.** (1) Any reference to the state highway fund shall be taken to mean the state highway account in the earmarked revenue fund.

(2) All moneys received for the use of the commission from the receipt or transfer of motor vehicle license fees, as provided by law, or from other state sources shall be deposited in the earmarked revenue fund to the credit of the commission.

(3) All moneys received from the counties and from the federal government or other agencies shall be deposited in the federal and private revenue fund to the credit of the commission.

(4) Hereafter, all moneys collected for the commission as authorized by law shall be credited to such fund or funds by the state treasurer.

Additional tax by
municipalities
prohibited—
exceptions.

Section 6-106. **Additional tax by municipalities prohibited—exceptions.** Municipalities shall not levy, assess, collect, or charge any additional tax upon any carrier of persons or property for hire, except as provided by law. However, no carrier shall be exempt hereby from paying a parking, curb or ad valorem property tax levied by any municipality.

Additional fees,
sales tax, and
penalty.
Additional fees on
motor trucks and
truck-tractors.

Part 2. **Additional Fees, Sales Tax, and Penalty.**

Section 6-201. **Additional fees on motor trucks and truck-tractors.** In addition to other fees for the licensing of vehicles, there shall be paid and collected annually for each motor truck and truck-tractor, based upon the maximum gross loaded weight thereof as set by the licensee in his application, the following fees:

Schedule.

Schedule I

Up to 6,000 lbs.	\$ 6
6,001 lbs. or more, and less than 8,000 lbs.	10
8,001 lbs. or more, and less than 10,000 lbs.	14
10,001 lbs. or more, and less than 12,000 lbs.	16
12,001 lbs. or more, and less than 14,000 lbs.	18
14,001 lbs. or more, and less than 16,000 lbs.	22
16,001 lbs. or more, and less than 18,000 lbs.	30

18,001 lbs. or more, and less than 20,000 lbs.	40
20,001 lbs. or more, and less than 22,000 lbs.	50
22,001 lbs. or more, and less than 24,000 lbs.	75
24,001 lbs. or more, and less than 26,000 lbs.	100
26,001 lbs. or more, and less than 28,000 lbs.	125
28,001 lbs. or more, and less than 30,000 lbs.	165
30,001 lbs. or more, and less than 32,000 lbs.	210
32,001 lbs. or more, and less than 34,000 lbs.	255
34,001 lbs. or more, and less than 36,000 lbs.	300
36,001 lbs. or more, and less than 38,000 lbs.	345
38,001 lbs. or more, and less than 40,000 lbs.	390
40,001 lbs. or more, and less than 42,000 lbs.	435

Section 6-202. **Additional fees on trailers and semi-trailers.** In addition to other fees for the licensing of vehicles there shall be paid and collected annually for each trailer and semitrailer, based upon the maximum gross loaded weight thereof as set by the licensee in his application, except as otherwise provided, the following fees.

Additional fees on
trailers and
semitrailers.

Schedule II.

Schedule.

Trailers Other Than House Trailers.

Up to 2,500 lbs. for personal use	Exempt
Up to 2,500 lbs. for commercial use	\$ 3
2,501 lbs. or more, and less than 6,000 lbs.	4
6,001 lbs. or more, and less than 8,000 lbs.	12
8,001 lbs. or more, and less than 10,000 lbs.	14
10,001 lbs. or more, and less than 12,000 lbs.	16
12,001 lbs. or more, and less than 14,000 lbs.	18
14,001 lbs. or more, and less than 16,000 lbs.	22
16,001 lbs. or more, and less than 18,000 lbs.	30
18,001 lbs. or more, and less than 20,000 lbs.	40
20,001 lbs. or more, and less than 22,000 lbs.	50
22,001 lbs. or more, and less than 24,000 lbs.	75
24,001 lbs. or more, and less than 26,000 lbs.	100
26,001 lbs. or more, and less than 28,000 lbs.	125
28,001 lbs. or more, and less than 30,000 lbs.	165
30,001 lbs. or more, and less than 32,000 lbs.	210
32,001 lbs. or more, and less than 34,000 lbs.	255
34,001 lbs. or more, and less than 36,000 lbs.	300
36,001 lbs. or more, and less than 38,000 lbs.	345
38,001 lbs. or more, and less than 40,000 lbs.	390
40,001 lbs. or more, and less than 42,000 lbs.	435

Additional fees—
gross weight over
42,000 pounds.

Section 6-203. **Additional fees—gross weight over 42,000 pounds.** In addition to the fees provided for in sections 6-201 and 6-202, for each motor truck, truck-tractor, trailer, or semitrailer having a gross loaded weight in excess of forty-two thousand (42,000) pounds and within the weight limits specified in section 32-1123, there shall be paid and collected annually a fee of fifty dollars (\$50) for each two thousand (2,000) pounds, or fraction thereof.

Additional fees—
pole trailers, low-
boys, livestock
and mixer vehicles.

Section 6-204. **Additional fees—pole trailers, low-boys, livestock and mixer vehicles.** There shall be paid and collected annually a fee equal to seventy-five per cent (75%) of the fees provided in Schedule I and Schedule II above on pole trailers; trucks, truck-tractors, trailers and semitrailers used exclusively in hauling livestock, logs, and ready-mix concrete; truck-tractors and low-boy trailers used exclusively in hauling equipment; and truck-tractors drawing or hauling said low-boy trailers.

Additional fees—
house trailers.

Section 6-205. **Additional fees—house trailers.** In addition to other fees for the licensing of vehicles, there shall be paid and collected annually for each house trailer, based upon over-all length of body as set by the licensee in his application, except as otherwise provided, a fee equal to fifty cents (\$.50) for each foot of over-all trailer body length exclusive of bumpers and hitch.

Additional fees—
certain farm
vehicles.

Section 6-206. **Additional fees—certain farm vehicles.** Except for motor trucks owned and operated by cooperative associations or cooperative marketing associations, there shall be paid and collected annually a fee equal to twenty per cent (20%) of the fees provided in Schedule I and Schedule II above on motor trucks, trailers and semitrailers, owned and operated by ranchers or farmers in the transportation of their own ranch, farm, orchard, or dairy products from point of production to market, or of supplies, commodities or equipment to be used on the ranch, farm, orchard, or dairy, or in the infrequent or seasonal transportation by one farmer for another for any purpose other than commercial hire of products of the farm, orchard or dairy, or of supplies or commodities to be used on the farm, orchard or dairy. However, the minimum fee so paid shall be four dollars (\$4). The terms "trailers and semitrailers" as used herein shall not include farm wagons.

Exclusion.

Additional fees—
buses—exception.

Section 6-207. **Additional fees—buses.** There shall be paid and collected annually for each bus or auto stage

with the exception of school buses a fee of seven dollars (\$7) per seat, exclusive of the first seven (7) seats and the operator, for the maximum adult seating capacity thereof, except that motor vehicles which are regularly used to haul freight and passengers shall be taxed upon the basis of the gross weight schedule established in section 6-201. School buses shall not be exempt if they enter charter service.

Section 6-208. **Additional fees—quarterly payment.** When the gross weight of any vehicle exceeds twenty-four thousand (24,000) pounds, the additional fees for motor trucks, trailers, tractors, pole trailers, or semitrailers may be purchased for a three months' period for one-fourth ($\frac{1}{4}$) the regular fee at the beginning of any quarter of the calendar year. For each fee so paid other than at the time of payment of the basic license fee, an additional fee of one dollars (\$1) shall be charged. The commission is authorized to establish rules and regulations relative to the issuance and display of certificates or insignia, which shall state the quarters for which the vehicle is licensed.

Additional fees—
quarterly payment.

Section 6-209. **Failure to pay additional fees—penalty.** No vehicle licensed under the provisions of section 6-208 shall be operated over the public highways unless the owner or operator thereof within ten (10) days after the expiration of any such three-month period shall apply for and pay the required fee for a license for an additional three-month period, or for the remainder of the year. Any person who operates any such vehicle upon the public highway after the expiration of said ten (10) days, shall be guilty of a misdemeanor. In addition he shall be required to purchase a gross weight license for the vehicle involved at the fee covering an entire year's license for operation thereof, less the fees for any period or periods of the year already paid. If, within five (5) days thereafter, no license for a full year has been purchased as required aforesaid, the Montana highway patrol, county sheriff or city police shall impound such vehicle in such manner as may be directed for such cases by the supervisor of the Montana highway patrol, until such requirement is met.

Failure to pay
additional fees—
penalty.

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Three-unit combination—fees in lieu of gross weight fees otherwise provided—marking.

Section 6-210. **Three unit combination—fees in lieu of gross weight fees otherwise provided—marking.** (1) In lieu of the gross weight fees provided in sections 6-201 - 6-208 of this chapter, the owner of any motor truck or truck-tractor used on the highways of the state in connection with two (2) trailers or semitrailers at the same time shall register them as a three unit combination in the following manner:

(a) By paying the registration and other fees covering the maximum practical gross vehicle weight for such truck or truck-tractor, but not less than the actual operating gross weight under the provisions of sections 53-114, 53-122, and sections 6-201 and 6-203 of this chapter.

(b) By registering such trailers in accordance with the provisions of sections 53-114 and 53-112, and by paying the gross vehicle weight fee prescribed for the maximum trailing load in accordance with the provisions of sections 6-202 and 6-203 of this chapter on the combined gross weight of the two (2) trailers or semitrailers, treating them as if they were a single unit.

(2) Vehicles on which fees are paid in accordance with this section shall have marked thereon the gross weight for which fees have been paid, and shall bear a distinctive mark designated by the commission.

(3) Nothing herein shall be construed as authorizing axle loads in excess to those established by section 32-1123.

Truck, truck-tractor or bus marked with weight or capacity—markings on farm, logging, livestock, mixer equipment or special vehicles.

Section 6-211. **Truck, truck-tractor or bus marked with weight or capacity—markings on farm, logging, livestock, ready-mix concrete, equipment or special vehicles.** (1) Each truck, truck-tractor or bus shall have permanently marked in clearly visible letters and numbers either the maximum gross weight, or maximum gross weight of the combinations of vehicles, or seating capacity shall be at least two (2) inches in height and on the driver's side of the vehicle.

(2) Any vehicle registered and taxed as a farm, logging, livestock, ready-mix concrete, lowboy or special fee vehicle shall have in addition to the above markings, and equally visible, the words "Farm Vehicle," "Logging Vehicle," "Livestock Vehicle," "Mixer Vehicle," "Equipment Vehicle" or "Special Vehicle".

Section 6-212. **Additional fees on motor trucks, truck-tractors, trailers and semitrailers from other states.** (1) In lieu of other fees for the licensing of vehicles, there shall be collected a fee for each motor truck, truck-tractor, trailer, and semitrailer already licensed for the year in another jurisdiction and operated upon an itinerant basis in this state. The fee shall be collected upon each entrance of such vehicle into the state, and shall be based upon the number of miles to be traveled in the state as shown in the application of the nonresident operator.

Additional fees on motor trucks, truck-tractors, trailers and semitrailers from other states.

(2) The fee shall be collected for any single vehicle. When any combination of truck, truck-tractor, semitrailer, or trailer totals more than six thousand (6,000) pounds gross weight, the fee shall be collected for each unit in the combination.

Fee.

(3) The fee shall be:

(a) Five dollars (\$5) for each trip of two hundred (200) miles or less.

(b) Seven dollars and fifty cents (\$7.50) for each trip of over two hundred (200) miles to four hundred (400) miles.

(c) Ten dollars (\$10) for each trip of over four hundred (400) miles.

(4) Such fees shall not apply to any trailer the principal use of which is as temporary or permanent living quarters, or to any vehicle of a carnival which is under contract with a state, county, or district fair association.

Exclusions.

Section 6-213. **Temporary trip permits showing payment of fees—display.** (1) Temporary trip permits showing payment of the fees provided for in the last section shall be issued under such rules and regulations, as may be prescribed by the commission. Such permit shall be displayed in the vehicle for which the fee has been paid at all times while such vehicle is being operated on the highways of this state by posting it where it may be read.

Temporary trip permits showing payment of fees—display.

(2) The commission may limit the operation of any such vehicle in this state to a definite period of time.

Section 6-214. **Time for payment of fees by non-residents.** A nonresident owner or operator of a motor

Time for payment of fees by nonresidents.

truck, truck-tractor, trailer or semitrailer shall, immediately upon arrival in the state, contact the nearest highway patrol office, any commission office, the county sheriff, or the county treasurer's office to pay the fee and secure the permit prescribed. All fees collected shall immediately be remitted to the county treasurer.

Sales tax on new passenger vehicles.

Section 6-215. Sales tax on new passenger vehicles.

(1) In consideration of the right to use the highways of the state, there shall be imposed a tax upon all sales of new passenger motor vehicles for which a license is sought and an original application for title is made. The tax shall be paid by the purchaser when he applies for his original Montana license through the county treasurer.

Tax.

(2) The sales tax shall be:

(a) One and one-half per cent (1½%) of the F.O.B. factory list price or F.O.B. port of entry list price, during the first quarter of the year.

(b) One and one-eighth per cent (1 1/8%) of the list price during the second quarter of the year.

(c) Three-fourths (¾) of one per cent (1%) during the third quarter of the year.

(d) Three-eighths (3/8) of one per cent (1%) during the fourth quarter of the year.

(3) In case the manufacturer or importer fails to furnish the F.O.B. factory list price or F.O.B. port of entry list price, the highway commission may use any published price lists.

(4) The proceeds from this tax should be remitted to the state treasurer every thirty (30) days for credit to the commission.

(5) The new vehicle shall not be subject to any other assessment or taxation during the calendar year in which the original application for title is made whether or not it is in the state on the first day of January of that year.

(6) The tax herein imposed shall not apply to any motor vehicle assessed pursuant to the provisions of section 84-406.

Violation—penalty.

Section 6-216. Violation—penalty. Any owner or operator of a motor truck, truck-tractor, trailer, semi-

trailer, bus or automobile who violates any provision of this part is guilty of a misdemeanor and shall be punished by a fine of not more than three hundred dollars (\$300), or by a sentence of not more than sixty (60) days in the county jail, or both.

Section 6-217. Excess weight—penalties. (1) The operator shall be subject to the penalties stated in this section whenever the gross laden weight of any motor truck, truck-tractor, trailer, or semitrailer operated upon any highway in this state exceeds:

Excess weight—penalties.

(a) The gross maximum weight marked upon the vehicle pursuant to section 6-211, or

(b) The gross vehicle weight shown on the owner's certificate of registration and tax receipt issued pursuant to section 53-107, or

(c) The gross vehicle weight shown on the gross vehicle weight receipt issued pursuant to section 53-620.

(2) The operator shall:

Operator to unload.

(a) Immediately unload all cargo in excess of the gross maximum weight for which the vehicle has been taxed.

(b) Immediately thereafter pay to the nearest county treasurer the difference between the fee already paid and that applicable to the gross weight of his vehicle before unloading the excess, provided that it does not exceed the legal axle weight.

(c) Immediately thereafter reload the cargo unloaded.

(3) If the gross maximum weight marked upon the vehicle is less than gross vehicle weight shown on the owner's registration tax receipt or on the gross vehicle weight receipt, and the receipt shows that the proper fee has been paid for the weight stated thereon, there shall be no penalty for improper marking.

Part 4. Fees For Drive-Away or Tow-Away Transporters.

Fees for drive-away or tow-away transporters.

Section 6-401. Permit and transit plates for new vehicles being transported by drive-away or tow-away methods. (1) Every person, firm, partnership or corporation, regularly and lawfully engaged in the transpor-

Permit and transit plates for new vehicles being transported by drive-away or tow-away methods.

tation of new vehicles over the highways of this state from manufacturing or assembly points to agents of manufacturers and dealers in this state or in other states, territories, foreign countries or provinces, by the drive-away or tow-away methods where such vehicles being driven, towed or transported by the saddle-mount, tow-bar or full-mount methods, or any lawful combination thereof, will be transported over the highways of the state of Montana but once, may annually apply to the registrar of motor vehicles for a permit to use the highways of this state, and shall pay, upon filing such application, a fee of one hundred dollars (\$100). Upon processing of the application, the registrar of motor vehicles shall issue an annual permit to the applicant.

(2) The permit holder may also apply to the registrar of motor vehicles for a sufficient number of distinctive transit plates or devices showing the permit number for identification of the vehicles being transported by the permit holder, and such plates or devices may be used on any vehicle being driven, towed or transported by and under the control of the permit holder. The registrar of motor vehicles shall collect the additional sum of one dollar (\$1) for each pair of transit plates or devices applied for and issued.

(3) The registrar of motor vehicles shall retain the permit and plate fees to defray costs of administering this act.

(4) The permit and transit plates or devices expire on December 31 of each year.

One-trip fee in addition to permit and plate fees, payable quarterly.

Section 6-402. **One-trip fee in addition to permit and plate fees, payable quarterly.** In addition to the permit and plate fees, a permit holder shall pay to the registrar of motor vehicles a one-trip fee of five dollars (\$5) per driven vehicle. The fee shall be paid within fifteen (15) days after the end of the calendar quarter upon forms recommended or supplied by the registrar of motor vehicles.

Disposition of funds collected.

Section 6-403. **Disposition of funds collected.** The registrar of motor vehicles shall retain five per cent (5%) of the funds collected in payment of the trip fees to defray costs of administration. The remaining ninety-five per cent (95%) shall be remitted, on or before the

fifteenth day of each month after collection, to the state treasurer for deposit to the credit of the commission.

Section 6-404. **Fees provided for are in addition to fees now payable under Title 8, Chapter 1.** The fees provided for drive-away or tow-away transportation are in addition to any fees payable by for-hire carriers under the provisions of Chapter 1, Title 8, Revised Codes of Montana, 1947, as amended.

Fees provided for are in addition to fees now payable under Title 8, Chapter 1.

Section 6-405. **Fees provided are in lieu of other fees payable—election to pay other fees.** The fees provided for drive-away or tow-away transporters are declared to be in consideration of the right to use the highways of the state, and are in lieu of all other fees including those which might be payable, under the provisions of part 2 of this chapter. However, any operator may elect to pay the fees payable under the provisions of that part.

Fees provided for are in lieu of other fees payable—election to pay other fees.

Section 6-406. **Exemptions from fees.** The fees provided for drive-away or tow-away transporters shall not apply to:

Exemptions from fees.

(1) Vehicles regularly used in the hauling of vehicles by the truck-away method, or to the vehicles so transported.

(2) Vehicles operated under dealers' licenses or plates.

(3) Vehicles registerable under any other provisions of law.

(4) Any person not issued a drive-away or tow-away permit.

Part 5. **Bond Issues For Toll Bridges.**

Section 6-501. **Toll bridge bond issues—authorization—nature.** (1) The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds for the purpose of paying the cost of any toll bridge. Each resolution providing for the issuance of bonds shall set forth and identify the toll bridge for which the bonds are to be issued. The bonds authorized by each resolution shall constitute a separate series identifiable by a series letter or letters.

Bond issues for toll bridges. Toll bridge bond issues—authorization—nature.

(2) Each bond issued by the authority shall contain a statement on the face thereof that the state shall not be

obligated to pay the same or the interest thereon except from the special fund provided for that purpose. Toll bridge bonds shall be secured only by the revenues from the toll bridge or toll bridges constructed with the proceeds of such bonds.

Negotiability.

(3) All such bonds shall be fully negotiable, as provided by the Uniform Commercial Code—Investment Securities.

(4) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes with the same effect as though they had remained in office until such delivery.

Toll bridge bonds
—maturity
—interest.

Section 6-502. Toll bridge bonds — maturity — interest. (1) Toll bridge bonds shall mature at such time or times, not more than twenty (20) years from their date or dates, as may be fixed by the authority's resolution. However, they may be made redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

Authority to
determine.

(2) The authority shall determine:

(a) The rate of interest such bonds shall bear, not exceeding six per cent (6%) per annum.

(b) The time or times of payment of such interest.

(c) The form of the bonds and the interest coupons to be attached thereto.

(d) The manner of executing the bonds and coupons.

(e) The denomination or denominations of the bonds; and

(f) The place or places of payment of principal and interest, which may be at any bank or trust company.

(3) Prior to the preparation of definitive bonds, the authority may issue temporary bonds with or without coupons under the same restrictions as definitive bonds. Such bonds shall be exchangeable for definitive bonds when such bonds have been executed and are available for delivery.

Section 6-503. Toll bridge bonds — sale — registration. (1) The bonds authorized may be issued and sold from time to time, in such amounts as shall be determined by the authority. The authority may sell said bonds in such manner and for such price as it may determine to be in the best interests of the state. However, no such sale shall be made for less than a price which, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, will show a net return of over six per cent (6%) per annum to the purchaser upon the amount paid therefor.

Toll bridge bonds
—sale
—registration.

(2) The authority may make provision for the registration of toll bridge bonds in the name of the owner as to principal alone or as to both principal and interest.

Section 6-504. Toll bridge bonds — proceeds — insufficiency — surplus. (1) The proceeds of toll bridge bonds shall be used solely for the payment of the cost of the toll bridge constructed according to law for the payment of which such bonds were issued, and shall be disbursed in such manner and under such restrictions as the authority may provide.

Toll bridge bonds
—proceeds
—insufficiency
—surplus.

(2) If such proceeds shall be less than the cost of any toll bridge, additional bonds may be issued in like manner to provide the amount of such deficit. Unless otherwise provided in the resolution authorizing the bonds, they shall be deemed to be of the same issue, entitled to payment from the same fund, and of equal preference as the bonds first issued for the same toll bridge.

(3) If such proceeds exceed the cost of any toll bridge, the surplus shall be paid into the fund provided for the payment of principal and interest of such bonds.

Section 6-505. Lien on moneys received from bonds. There is hereby created and granted a lien in favor of the holders of any bonds issued by the authority for payment of the cost of a particular toll bridge upon all moneys received from any such bonds until such moneys are applied in payment of such bonds.

Lien on moneys
received from
bonds.

Section 6-506. Separate funds—depositories. (1) The authority shall create three (3) separate funds for the bonds of each series issued:

Separate funds
—depositories.

(a) The toll bridge construction fund.

(b) The toll bridge revenue fund.

(c) The toll bridge sinking fund. Each fund shall be identified by the same series letter or letters as the bonds of such series.

(2) The money in the funds shall be deposited in any depository or depositories and secured in such manner as the authority may determine. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish indemnifying bonds or to pledge such securities as may be required by the authority.

Construction fund
—disposition
of surplus.

Section 6-507. **Construction fund—disposition of surplus.** (1) The proceeds of the bonds of each series issued by the authority shall be placed to the credit of the appropriate construction fund which shall at all times be kept segregated from all other funds.

(2) There shall also be credited to the appropriate construction fund:

(a) All interest accrued upon the bonds.

(b) All interest received upon the deposits of moneys in the fund.

(c) All money received by grant or donation from the United States or any other source for the construction of such toll bridge.

(3) The moneys in each construction fund shall be disbursed to pay the cost of the toll bridge for which such fund was created. Any surplus which may remain in any construction fund after providing for the payment and the cost of such toll bridge shall be added to the appropriate sinking fund.

Revenue fund.

Section 6-508. **Revenue fund.** All tolls collected by the engineer under the supervision of the authority and subject to its rules and regulations shall be deposited to the credit of the respective toll bridge revenue fund designated by the authority.

Sinking fund
—provisions
—purpose
—outstanding bonds
—redemption.

Section 6-509. **Sinking fund.** (1) In the resolution authorizing the issuance of each series of bonds, the authority shall provide for paying into the appropriate sinking fund at stated intervals all moneys then remaining in the revenue fund after paying all costs of operation, main-

tenance and repair of the toll bridge with respect to which such revenue fund was created.

(2) All moneys in each sinking fund shall be pledged for the payment of and used only for the purpose of paying:

(a) The interest upon the bonds as it becomes due.

(b) The necessary fiscal agency charges for paying bonds and interest.

(c) The principal of the bonds as they fall due.

(d) Any premiums upon bonds retired by call or purchase.

(3) Prior to the issuance of any bonds in a series the authority may provide by resolution for using the sinking fund or any part of such fund to purchase outstanding bonds payable from such fund. The price to be paid cannot exceed the price, if any, at which such bonds will be payable or redeemable at the next interest date. All bonds redeemed or purchased shall be canceled and no bonds issued in place thereof.

(4) The resolution authorizing any bonds may provide for a reserve for the payment of principal and interest. The moneys in each sinking fund, less such reserve, if not used within a reasonable time for the purchase of bonds for cancellation, shall be used to redeem bonds then subject to redemption at the redemption price then applicable.

CHAPTER 7. COUNTY FINANCE.

County finance.

Part 1. Tax Levies for Road and Bridge Construction.

Tax levies for road
and bridge
construction.
General road tax.

Section 7-101. **General road tax.** (1) To raise revenue for the construction, maintenance, or improvement of public highways, each board of county commissioners may levy a general tax upon the taxable property in the county of not more than ten (10) mills, payable to the county treasurer. The tax from freeholders shall be collected the same as other taxes, and from nonfreeholders as the board may direct.

(2) This section shall not apply to incorporated cities and towns which, by ordinance, provide for the levy of a like tax for road, street, or alley purposes.

(3) All moneys collected under this section shall belong to the county road fund.

Special bridge taxes—levy and collection.

Section 7-102. **Special bridge taxes—levy and collection.** (1) Each board may levy a special tax not to exceed three (3) mills on all taxable property in the county for the purpose of constructing, maintaining and repairing free public bridges.

(2) An additional levy for these purposes may be made under the following conditions:

(a) In any county where the total linear feet of bridges or bridge construction is more than four thousand (4,000) feet and the taxable value of property in that county is four million dollars (\$4,000,000) or less, the board may, if necessary, levy one (1) mill.

(b) In counties where the total linear feet of bridges or bridge construction is more than six thousand (6,000) feet and the taxable value of property in that county is not less than four million dollars (\$4,000,000) nor more than twelve million dollars (\$12,000,000), the board may, if necessary, levy two (2) mills.

(3) For the purposes of this section, a free public bridge is defined as any drainage structure located on, over or through any road or highway.

(4) These taxes must be levied and collected in the same manner as other taxes. The money shall be kept as a special bridge fund, subject to the order of the board for use as herein provided, and shall not be transferable to any other fund.

Suburban railway to pay county for use of bridge.

Section 7-103. **Suburban railway to pay county for use of bridge.** (1) Before any bridge constructed and maintained by the county in any city or town may be used as a part of any street or suburban railway, the owner of that railway shall pay into the county bridge fund a sum determined by the board which shall not be less than one-fourth ($\frac{1}{4}$) nor more than one-half ($\frac{1}{2}$) of the cost of construction of the bridge.

(2) The railway owner shall also pay such portion of the cost of maintaining the bridge (not less than one-fourth [$\frac{1}{4}$] nor more than one-half [$\frac{1}{2}$]) as is determined by the board during the time the bridge is used by the railway.

Section 7-104. **Special tax for construction and maintenance.** Each board may levy a special tax not to exceed five (5) mills on the taxable property in the county to defray the costs of any bridge required to be constructed and maintained by the county in any city or town.

Special tax for construction and maintenance.

Section 7-105. **Additional tax levy for road and bridge construction.** (1) Each board may make an additional levy upon the taxable property in the county of ten (10) mills or less for constructing public highways and bridges.

Additional tax levy for road and bridge construction.

(2) Before the additional levy may be made, the question shall be submitted to a vote of the people at some general or special election in the following form, inserting the number of mills to be levied and the name of the county: "Shall there be an additional levy ofmills upon the taxable property in the county of....., state of Montana, for the purpose of constructing public highways and bridges?"

Question—form.

- ☐ Yes
☐ No."

(3) A majority of the votes cast shall be necessary to permit the additional levy which shall be collected in the same manner as other road taxes.

Part 2. Registration and Other Fees.

Section 7-201. **County motor vehicle fund.** All license and registration fees collected by the treasurer of the county in which any motor vehicle is registered shall be credited to the county motor vehicle fund.

Registration and other fees.
County motor vehicle fund.

Section 7-202. **Population centers—city road fund—county road fund.** The county treasurer shall segregate from the county motor vehicle fund, and designate as the "city road fund":

Population centers
—city road fund
—county road fund.

(a) Fifty per cent (50%) of the net license fees derived from the registration of motor vehicles whose owners reside within the limits of any incorporated city.

(i) Having a population of thirty-five thousand (35,000) or more according to the federal census of 1960, or

(ii) Lying within one (1) mile of the limits of an incorporated city having a population of thirty-five thousand (35,000) or more according to the federal census of 1960.

(b) Twenty-five per cent (25%) of the net license fees derived from the registration of motor vehicles whose owners reside within the limits of any incorporated city having a population of ten thousand (10,000) or more according to the federal census of 1960, which city is located in a county which has an area of less than seven hundred and fifty (750) square miles.

(2) The balance of the county motor vehicle fund remaining after segregation of the city road fund shall be transferred to the "county road fund."

Population centers
—use of city
road fund.

Section 7-203. Population centers—use of city road fund. (1) At the end of each month, the county treasurer shall pay to the appropriate city treasurer the fees held in the city road fund.

(2) The city treasurer shall hold the fees so paid in a separate "city road fund," which shall be used by the city council only for the construction, repair, and maintenance of permanent highways and streets within the corporate limits.

(3) All such work shall be under the supervision of the county road superintendent, who shall cooperate with the city council in designating the highway or street upon which work is to be done and in selecting the type of pavement to be used.

(4) The cost of supervision by the county surveyor shall not exceed five per cent (5%) of the cost of the work.

Other counties—
county road fund
—city road fund.

Section 7-204. Other counties—county road fund—city road fund. (1) In every county which does not have a city and area populated as provided in section 7-202 of this part, the county treasurer shall divide the county motor vehicle fund between a "city road fund" and a "county road fund."

(2) The division shall be in the ratio determined by the board of county commissioners. The board shall determine the ratio by comparing the total number of miles of public streets and highways situated within the limits of incorporated cities and towns with the total number of miles of public streets and highways outside of such corporate limits.

Section 7-205. Other counties—use of city road fund.

(1) At the end of each month, the county treasurer shall pay to the treasurer of each incorporated city or town such proportion of the city road fund as directed by the board of county commissioners.

Other counties—
use of city
road fund.

(2) The city or town treasurer shall hold the fund so paid in a separate "city road fund," which shall be used by the city or town council only for the construction, repair, and maintenance of permanent highways and streets within the corporate limits.

Section 7-206. Use of county road fund. The county road fund of each county shall be used for the construction, repair, and maintenance of all public highways within its boundaries which are outside the corporate limits of any city or town and are not either state or federal highways.

Use of county
road fund.

Section 7-207. Special mobile equipment—exemption from registration and payment of fees and charges—identification plate—application—fee—publicly owned special mobile equipment. (1) A person, firm, partnership, or corporation who owns, leases, or rents special mobile equipment as defined in section 53-642 and occasionally moves that equipment on, over, or across the highways of the state, shall not be subject to registration of that equipment or be required to pay the fees and charges provided for in the chapter "State Finance." Prior to any movement on the highways, however, each piece of equipment shall display an equipment identification plate attached thereto.

Special mobile
equipment—
exemption from
registration and
fees—identifica-
tion plate—appli-
cation—fee—
publicly owned
equipment.

(2) Annual application for the identification plate shall be made to the county treasurer before any piece of equipment is moved on the highways. Application shall be made on a form furnished by the registrar of motor vehicles, together with the payment of a fee of five dollars (\$5). The fees collected under this act shall belong to the county road fund.

(3) The identification plate shall expire on December 31 of each year.

(4) Publicly-owned special mobile equipment, and implements of husbandry used exclusively by an owner in the conduct of his own farming operations, are exempt from the provisions of this section.

Bonds.

Part 3. Bonds.

County commissioners may issue bonds.

Section 7-301. County commissioners may issue bonds.

(1) Each board may issue, negotiate and sell coupon bonds on the credit of the county:

(a) To construct or improve, or acquire rights of way for public highways; or bridges.

(b) To refund, pay and redeem optional, redeemable or maturing highway or bridge bonds when there are not sufficient funds available and it is deemed in the best interests of the county to refund the bonds.

(2) The value of the bonds issued and all other outstanding indebtedness of the county shall not exceed five per cent (5%) of the value of the taxable property within the county as ascertained by the last preceding general assessment.

(3) The bonds shall be issued as provided in section 16-2008.

Negotiations for refunding.

Section 7-302. Negotiations for refunding. (1) Whenever the total indebtedness of a county exceeds the constitutional limitation of five per cent (5%) of the value of the taxable property therein and the board determines that the county is unable to pay such indebtedness in full, the board may:

(a) Negotiate with the bondholders for an agreement or agreements whereby the bondholders agree to accept less than the full amount of the bonds and the accrued unpaid interest thereon in satisfaction thereof.

(b) Enter into such agreement or agreements.

(c) Issue refunding bonds for the amount agreed upon. These bonds may be issued in more than one series and each series may be either amortization or serial bonds.

(2) The plan agreed upon between the board and the bondholders shall be embodied in full in the resolution providing for the issue of the bonds.

Single purpose—highway—bridge.

Section 7-303. Single purpose—highway—bridge. (1) It shall be deemed a single purpose to:

(a) Acquire a right-of-way for and construct a public highway including any bridge or bridges thereon.

(b) Contribute to the cost of a federal-aid bridge.

(c) Contribute to the cost of a federal-aid highway project on a highway leading to a federal-aid bridge.

(2) Construction of two or more bridges not forming a part of the same public highway shall be deemed separate purposes.

(3) Nothing contained in this section shall be construed as amending or repealing sections 16-1163 - 16-1165.

Section 7-304. Limitation on amount of bonds—issuance in excess of limitations void. (1) Except as otherwise provided hereafter and in section 16-2010, no county shall issue bonds which, with all outstanding bonds and warrants, except county high school bonds and emergency bonds, will exceed two and one-half per cent (2½%) of the value of the taxable property therein. The taxable property shall be ascertained by the last assessment for state and county taxes prior to the issuance of such bonds.

Limitation on amount of bonds—issuance in excess of limitations void.

(2) A county may issue bonds which, with all outstanding bonds and warrants will exceed two and one-half per cent (2½%), but will not exceed five per cent (5%) of the value of such taxable property, when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges or highways which have been destroyed or damaged by an act of God, disaster, catastrophe, or accident.

(3) All bonds issued by any county in excess of the limitations herein fixed shall be null and void, except that the limitations shall not apply to refunding bonds issued to pay or retire county bonds lawfully issued prior to January 1, 1932.

(4) The words "value of the taxable property" are used in this section in the same sense as in section 5 of article 13 of the constitution and shall be given the same meaning and construction.

"Value of the taxable property."

Section 7-305. Term—power to redeem—maximum interest. (1) No bonds issued under subsection (1) of section 7-301 of this part shall be for a longer term than twenty (20) years.

Term—power to redeem—maximum interest.

(2) No bond issued under subsection (2) of that section shall be issued for a term longer than ten (10) years, except that:

(a) If the unexpired term of the bonds to be refunded is greater than ten (10) years, the refunding bonds may be issued for the unexpired term; or

(b) If the ten (10) year term requires an annual tax levy for payment of the refunding bonds which exceeds ten (10) mills on all property subject to taxation, the term may be so extended as to reduce the annual levy to ten (10) mills. In no event shall the term exceed twenty (20) years.

(3) All bonds issued for a term longer than five (5) years shall be redeemable at the option of the county five (5) years after the date of issue and on any payment due date thereafter before maturity. This statement shall appear on the face of each bond.

(4) The maximum rate of interest which any bonds shall bear is six per cent (6%) per annum. Interest shall be payable semiannually.

Form of bonds.

Section 7-306. **Form of bonds.** (1) All bonds issued by any county shall be either amortization bonds or serial bonds. Amortization bonds shall be issued in preference to serial bonds.

"Amortization bonds."

(2) The term "amortization bonds" means that form of bond on which a part of the principal is required to be paid each time interest becomes due and payable. The part payment of principal increases with each following installment in the same amount the interest payment decreases, so that the combined amount payable on principal and interest is the same on each interest payment date. However, the final payment may vary in amount from the other payments to the extent resulting from disregarding fractional cents in the other payments.

"Serial bonds."

(3) The term "serial bonds" means a bond issue payable in equal annual installments, one (1) installment consisting of one (1) or more bonds becoming due and payable each year. The amount to be paid and redeemed each year shall be determined by dividing the total amount of the bonds to be issued by the total number of years the issue is to run, so that the total amount of principal to be paid each year will be the same. The amount of installments becoming due and payable the first year, or the first and second years, may vary from the others to the extent which results from fixing the amounts of

each bond of the other installments at one hundred dollars (\$100), five hundred dollars (\$500) or one thousand dollars (\$1,000) as may be determined by the board.

Chapter 8. ACQUISITION AND DISPOSITION OF PROPERTY AND INTERESTS THEREIN.

Part 1. Acquisition and Disposition by State.

Section 8-101. **Rights acquired by public in highway.** By taking or accepting land for a highway, the public may acquire either a fee simple or any lesser estate or interest.

Section 8-102. **General power of commission to acquire interests in property.** Notwithstanding any other provision of law, the commission may acquire by purchase or any other lawful manner any lands or other real property, excluding oil, gas and mineral rights, which it deems reasonably necessary for present or future highway purposes. The commission may acquire a fee simple or any lesser estate or interest.

Section 8-103. **Same—highway purposes.** The acquisition of lands or other property, or any interest therein, for present or future highway purposes includes, but is not limited to any of the following purposes: (1) For rights of way, including those necessary for highways within cities.

(2) For exchanging lands or other property or any interest therein for other such lands or interests for rights of way or other authorized purposes. The right of eminent domain shall not be exercised for this purpose.

(3) For deposits of road building materials, including rock, gravel, sand, and earth for reasonably foreseeable future road building purposes and uses. The right of eminent domain shall not be exercised to acquire any such deposits which constitute a component part of an existing private business enterprise.

(4) For offices, weighing stations, shops, storage yards, buildings, rest areas, informational sites, or communication facilities.

(5) For parks adjoining or near any highway.

(6) For the culture and support of trees or shrubs which benefit any highway by aiding in the maintenance and preservation of the roadbed.

Acquisition and disposition of property and interests therein.

Acquisition and disposition by state. Rights acquired by public in highway.

General power of commission to acquire interests in property.

Same—highway purposes.

- (7) For drainage in connection with any highway.
- (8) For the maintenance of an unobstructed view of any portion of a highway so as to promote the safety of the traveling public.
- (9) For the construction and maintenance of stock lanes or trails.
- (10) For the construction and maintenance or replacement of private or public drainage systems, or natural water or drainage courses made necessary by highway construction.
- (11) For providing land or other real property easements or rights of way for necessary relocation of existing utilities, utility easements, or other easements for facilities or purposes then in place or in effect upon a proposed right of way.

Exercise of right
of eminent domain
—presumption.

Section 8-104. **Same—exercise of right of eminent domain, presumption.** (1) Whenever the commission can not acquire lands or other property or interests therein at a price or cost which it deems reasonable, it may direct the attorney general or any county attorney to procure the interests by proceedings to be instituted as provided in sections 93-9901 - 93-9926 against all nonaccepting landholders.

(2) It shall not so direct the attorney general or any county attorney until it adopts a resolution declaring that:

(a) Public interest and necessity require the construction or completion by the state of the highway or improvement for one of the purposes set forth in section 8-103.

(b) The interest described in the resolution and sought to be condemned is necessary for the highway or improvement.

(c) The highway or improvement is planned and located in a manner which will be compatible with the greatest public good and the least private injury.

(3) The resolution shall create and establish a disputable presumption:

(a) Of the public necessity of the proposed highway or improvement.

(b) That the taking of the interest sought is necessary therefor.

(c) That the proposed highway or improvement is planned or located in a manner which will be most compatible with the greatest public good and the least private injury.

Section 8-105. **Same—acquisition of whole parcel—sale of excess.** (1) Whenever any interest in a part of a parcel of land or other real property is to be acquired for highway purposes, leaving the remainder in such shape or condition as to be of little market value, or to give rise to claims or litigation over severance or other damage, the commission may acquire the whole parcel. It may sell or exchange the remainder for other property needed for highway purposes.

Acquisition of
whole parcel—
sale of excess.

(2) Whenever a part of a parcel of land acquired for highway purposes is in such a shape or size as to come within the provisions of section 11-614, the commission shall prepare and file the required plat in the office of the county clerk and recorder.

Section 8-106. **Same—power to acquire for future.** (1) The power conferred by this chapter to acquire interests in lands or other real property includes power to acquire for reasonably foreseeable future needs.

Power to acquire
for future.

(2) The commission may lease unused portions of any lands or other real property which are held for highway purposes and interstate highway rights of way which are not presently needed for highway purposes on such terms and conditions as it may fix. The commission may repair, maintain, and care for such property in order to secure rent therefrom.

(3) All rent received shall be deposited to the credit of the commission.

Section 8-107. **Same—road building materials.** (1) Any right of way or easement acquired by the commission for construction, operation, repair, reconstruction, or maintenance of highways shall include, among others, the right to use, remove, relocate, redistribute, or otherwise dispose of any and all gravel and other road-building materials found or located within the boundaries of the right of way or easement.

Road building
materials.

(2) For the purposes of this chapter, such gravel or materials shall be deemed to be real property and not minerals.

No compensation
in certain cases
—exceptions.

Section 8-108. **No compensation in certain cases—exceptions.** (1) Whenever the commission files a description and plan as provided in section 4-113 of this Code, no consideration, allowance or assessment of values or compensation shall be made in the purchase or condemnation of any buildings or improvements or subdivisions placed or erected on the land covered by the plan after the filing.

(2) The establishment of the highway location covered by the description and plan shall be ineffective one year after filing if no action to condemn or acquire the property has been commenced.

(3) Nothing in this section or in section 4-113 shall apply to crops or similar improvements planted on the lands described. They shall be governed by the provisions of section 93-9913.

Exchange of
interests in
real property.

Section 8-109. **Exchange of interests in real property.** (1) The commission may determine that any interest in real property, however acquired by it, is no longer necessary to the laying out, altering, construction, improvement, or maintenance of any highway. It may then exchange any such interest, either as entire or partial consideration, for any other interest in real property needed for highway purposes. The commission may establish the manner and terms and conditions for such exchange.

(2) The owner from whom such interest was originally acquired by the state, or his successor in interest, shall have the right to require the commission to offer such land for sale in the manner set forth in sections 8-110 and 8-111. The commission shall notify such owner or successor in interest of its intention to exchange such interest. The owner shall make his demand for sale by registered mail to the commission within ten (10) days after receipt of notice from the commission.

Sale of interests
in real property.

Section 8-110. **Sale of interests in real property.** The commission may sell any interest in real property, however acquired by it, which it determines is not necessary to the laying out, altering, construction, improvement, or maintenance of any highway. If the interest is reasonably of a value in excess of one hundred dollars (\$100), sale

shall be made to the highest bidder at public auction or by sealed bids as the commission may decide. The sale shall be conducted as provided in section 8-111.

Section 8-111. **Conduct of sale.** (1) The commission shall publish notice of the sale in a newspaper published in the county in which the interest is located once a week for two (2) successive weeks. Sale shall be held at the office of the commission at the capitol.

Conduct of sale.

(2) Before any sale of any interest having a value in excess of one hundred dollars (\$100), the commission shall have it appraised at a price representing a fair market value. The appraised value shall be stated in the published notice.

(3) No sale shall be made of any interest unless it has been appraised within three (3) months prior to the date of the sale. No sale shall be made for less than ninety per cent (90%) of the appraised value.

(4) No title to any interest shall pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the commission.

Section 8-112. **Option of original owner or successor in interest to purchase at sale price.** The owner from whom the interest was originally acquired, or his successor in interest, shall have the option to purchase the interest by offering therefor an amount of money equal to the highest bid received for the interest at the sale. The offer shall be sent to the commission by registered mail within ten (10) days from the date of the sale.

Option of original
owner or successor
in interest to
purchase at sale
price.

Section 8-113. **Private sale if no bid or offer.** (1) If, after proper notice is published, the commission receives neither bid at public sale nor offer from the original owner of his successor in interest, it may at any time thereafter sell the interest at private sale. At such sale, the commission may accept as the purchase price an amount of money not less than ninety per cent (90%) of the appraised value.

Private sale if no
bid or offer.

(2) No title to any interest shall pass from the state until the purchaser has paid the full amount of the purchase price into the state treasury to the credit of the commission.

Sale of personal
property—maps,
books, other
printed matter.

Section 8-114. **Sale of personal property—maps, books, other printed matter.** (1) The commission may sell at public or private sale, as it may determine, any interest in personal property, however acquired by it, which it determines is not necessary to the laying out, altering, construction, improvement, or maintenance of any highway.

(2) The commission may sell at public or private sale, as it may determine, maps, books, pamphlets, or other printed matter, prepared or acquired by the commission. The commission may sell copies of any highway records to the public and may set reasonable prices therefor.

(3) The proceeds from sales made under the provisions of this section shall be paid into the state treasury to the credit of the commission.

Conveyances
—execution
—contents.

Section 8-115. **Conveyances — execution — contents.** (1) Any land or interest therein sold by the commission shall be conveyed only when full payment has been made therefor. It shall be conveyed by a deed or patent of conveyance without covenants which recites that it was issued under the provisions of this part.

(2) The deed or patent shall contain a reservation of easements for rights of way for the benefit of the United States, and all other reservations to which the land conveyed may be subject.

(3) The deed or patent shall be signed by the governor, or, in case of his absence or inability, the lieutenant governor. It shall be attested by the secretary of state and have attached the great seal of the state. It need not be acknowledged.

Rendering irrigable
lands unusable—
unpaid construction
costs.

Section 8-116. **Rendering irrigable lands unusable—unpaid constructions costs.** Whenever the commission acquires irrigable land for highway purposes, or so acquires land as to render other irrigable land unusable for irrigation, it shall pay to the owner of the irrigation or drainage project, in addition to other sums allowed by law, a proportionate share of the unpaid construction costs of the project or drainage district.

Abandonment or
vacation of federal-
aid or state
highways.

Section 8-117. **Abandonment or vacation of federal-aid or state highways.** Every federal-aid or state highway once established must continue until abandoned or

vacated by operation of law, or by judgment of a court of competent jurisdiction, or by a proper order of the commission.

Section 8-118. **Highway crossing railroad, canal, or ditch.** (1) Whenever any federal-aid or state highway is laid out on public lands across any railroad, canal, or ditch, the owners or users thereof must, at their expense, so prepare the railroad, canal, or ditch that the highway may cross it without damage or delay.

Highway crossing
railroad, canal,
or ditch.

(2) When the right to cross is obtained through the judgment of any court, no damages shall be awarded.

Section 8-119. **Rights of way for toll bridges.** (1) The authority may acquire by purchase or otherwise necessary rights of way for any toll bridge and approaches. It may exercise the right of eminent domain in the name of the state for those purposes.

Rights of way
for toll bridges.

(2) Whenever the authority can not acquire by purchase any right of way which it deems necessary, it may direct the attorney general or any county attorney to procure it by proceedings to be instituted as provided in sections 93-9901 - 93-9926 against all non-accepting land-owners.

(3) A right of way is hereby given, dedicated, and set apart for toll bridges and approaches thereto, through, over, upon, or across:

- (a) Any property of the state, including highways.
- (b) Any county road.
- (c) Any street or alley.

Acquisition and use for toll bridge and approach purposes shall be deemed a superior and more necessary public use than the public use or purpose to which the highway, road, street, or alley has theretofore been dedicated.

Section 8-120. **Acquisition of property for controlled access facility.** (1) The highway authorities of the state, counties, incorporated cities and towns, respectively, or in cooperation one with the other, may acquire private or public property and property rights for controlled access highways or controlled access facilities and service roads. Such rights may include rights of

Acquisition of
property for controlled
access
facility.

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access, air, view, and light. They may be acquired by gift, devise, purchase, or condemnation, in the same manner as may now or hereafter be authorized by law for the acquisition of property or property rights in connection with highways, roads, and streets in their respective jurisdictions.

(2) A right of way is hereby given, dedicated, and set apart for controlled access highways or controlled access facilities through, over, upon, or across any county road and any street or alley intersecting a controlled access highway. Acquisition of any county road, street, or alley for use as a controlled access highway or controlled access facility shall be deemed a superior and more necessary public use and purpose than the public use or purpose to which such road, street, or alley has theretofore been dedicated.

Acquisition and
disposition by
county.
Rights of way
for county roads.

Part 2. Acquisition and Disposition by County.

Section 8-201. **Rights of way for county roads.** (1) Each board shall acquire rights of way for county roads and discontinue or abandon them only upon proper petition therefor.

(2) By taking or accepting interests in real property for county roads, the public acquires only the right of way and the incidents necessary to enjoying and maintaining it.

Petition by free-
holders to estab-
lish, change, aban-
don or discontinue
a county road.

Section 8-202. **Petition by freeholders to establish, change, abandon, or discontinue a county road.** Any ten, or a majority, of the freeholders of a road district, taxable therein for road purposes, may petition the board in writing to open, establish, construct, change, abandon, or discontinue any county road in the district. If the county is not divided into districts the entire county shall be one road district. When the road petitioned for is on the dividing line between two counties, the same procedure must be followed, except that a copy of the petition must be presented to each board. The two boards shall act jointly.

Contents of
petition.

Section 8-203. **Contents of petition.** The petition must set forth: (1) The particular road or roads to be opened, established, constructed, changed, discontinued, or abandoned.

(2) The general route thereof.

(3) The lands and owners affected.

(4) Whether the owners who can be found consent thereto.

(5) Where consent is not given, the probable cost of the right of way.

(6) The necessity for, and advantage of, the petitioned action.

Section 8-204. **Investigation of petition—notice.** (1) At its next regular or special meeting, or in any case, at a date within thirty (30) days after filing of any petition, the board shall cause an investigation to be made of the feasibility, desirability, and cost of granting the prayer of the petition. The investigation shall be sufficient to properly determine the merits or demerits of the petition.

Investigation of
petition—notice.

(2) No more than one member of the board and the county surveyor shall make the investigation. After considering the petition and the results of the investigation, the board shall make an entry of its decision on the minutes.

(3) Within ten (10) days thereafter, the board shall cause notice of its decision to be sent by certified mail to all owners of land abutting on the road petitioned for. The owners shall be those listed on the last county assessment-roll.

Section 8-205. **Opening of road—survey.** If the petition is for the opening of a county road, and the board grants the prayer, ordering the road opened, it shall proceed at once to have it opened to the public and declare it to be a county road. The board may order the county surveyor, or some other competent surveyor, if the county surveyor is incompetent to survey and plat the road. He shall file his field notes with the county clerk and recorder. The surveyor shall receive seven dollars (\$7) per day and actual traveling expenses.

Opening of road
—survey.

Section 8-206. **Determination of damages—declaration as road.** (1) Whenever the board makes an order establishing or changing any road, it must find the amount of damages sustained by each owner or claimant of lands or improvements thereon affected by the road.

Determination
of damages—
declaration
as road.

Damages shall be paid to the owner or claimant, if known, upon his showing or establishing his right or title to the lands or improvements and furnishing proper deeds and releases.

(2) Damages must be determined by estimating the benefits and damages accruing. The sum estimated as benefits must be deducted from the sum estimated as damages, and the remainder, if any, shall be the amount of damages awarded.

(3) If all awards are accepted, the board shall declare the road a county road and open it.

Award of damages deemed rejected—proceedings to secure right of way.

Section 8-207. **Award of damages deemed rejected—proceedings to secure right of way.** (1) If any award of damages provided for in section 8-206 is not accepted within twenty (20) days after the date of the award, it shall be deemed rejected by the owner. The board shall, by order, direct that proceedings to procure the right of way be instituted under sections 93-9901 - 93-9926 by the county attorney against all nonaccepting landowners.

(2) Such proceedings shall in no way be affected or invalidated by the failure of the board to give any notice or do any act provided for in this part. Failure to give any such notice shall not be considered by any court as a defense in any proceedings for procuring right of way.

(3) However, in such proceedings it shall be made to appear that the board shall have declared by resolution that the right of way was necessary and desirable.

Damages and expenses to be paid out of county road fund.

Section 8-208. **Damages and expenses to be paid out of county road fund.** All awards of damages estimated by the board or made by the proper court and all expenses, including those of the members of the board and their per diem authorized by section 16-912, shall be paid out of the county road fund on the order of the board.

Change of road upon petition.

Section 8-209. **Change of road upon petition.** (1) A majority of the freeholders or owners residing on any county road, or portion thereof, may petition the board in writing to so change the road or portion as to run on subdivision or section lines.

(2) The board shall investigate in the same manner as provided in section 8-204. After investigation, the board may order the making of the change if it can be done without material damage, injury, or serious inconvenience to the public customarily using the road or portion.

(3) Those petitioning for the change shall bear all or such portion of the cost and expense of making it as the board may order.

Section 8-210. **Notice to district supervisor of opening of county road.** When a county road is to be opened, established, constructed, changed, abandoned, or discontinued, the county clerk shall notify the supervisor of the proper district and furnish him with a certified copy of the order of the board.

Notice to district supervisor of opening of county road.

Section 8-211. **Record of opening or changing road.** When a county road is opened or changed, the findings of the board, the plat fieldnotes, and the report of the surveyor shall be recorded in the office of the county clerk in a book kept for that purpose.

Record of opening or changing road.

Section 8-212. **Deeds and judgments for right of way—recording.** (1) When a right of way is voluntarily given or purchased, an instrument in writing, conveying the right of way and incidents thereto, must be signed and acknowledged by the person making it. It must then be recorded in the office of the clerk of the county where the land is located.

Deeds and judgments for right of way—recording.

(2) When a right of way is condemned, a certified copy of the judgment of the court must be made. It must then be filed in the office of the clerk of the county where the land is located.

(3) Both types of instruments shall particularly describe the land.

Section 8-213. **County road crossing railroad, canal or ditch.** (1) Whenever any county road is laid out on public lands across any railroad, canal, or ditch, the owners or users thereof must at their expense, so prepare the railroad, canal, or ditch that the road may cross it without damage or delay.

County road crossing railroad, canal or ditch.

(2) When the right to cross is obtained through the judgment of any court, no damages shall be awarded.

Abandonment or
vacation of
county roads.

Section 8-214. **Abandonment or vacation of county roads.** All county roads once established must continue to be county roads until abandoned or vacated by operation of law, or by judgment of a court of competent jurisdiction, or by the order of the board. No order to abandon any county road shall be valid unless preceded by notice and public hearing.

Stock lanes.

Section 8-215. **Stock lanes.** Upon presentation of a proper petition, each board may establish, alter, or vacate stock lanes when it deems it expedient and necessary for the convenience of the public and for the convenience of travel on roads now established. Any lane may adjoin and parallel a county road and shall be described in the petition for creation and in the order of the board creating it.

(2) A stock lane is a county road established and maintained for the driving and travel of livestock. It shall be not less than sixty (60) feet wide. The width shall be determined by the board in the order creating it.

(3) The provisions of sections 8-201 - 8-214 of this part and the general laws relating to establishing, altering, and vacating county roads including the exercise of the right of eminent domain shall apply to stock lanes. References in all petitions, orders, and proceedings shall be to "stock lanes" in order to differentiate them from other highways.

Board to transfer
responsibility
for right of way.

Section 8-216. **Board to transfer responsibility for right of way.** Each board shall transfer its control over, and responsibility for, any county road when the commission notifies it that: (1) A federal or state highway has been established and definitely located over a county road.

(2) Funds are available for immediate construction of the highway.

(3) The highway will be improved and maintained by the commission.

Acquisition of
property for
public ferries
and wharves.

Section 8-217. **Acquisition of property for public ferries and wharves.** (1) Upon the proper showing, as provided in section 16-1116, each board may construct or acquire ferries by condemnation or purchase. Each board may also acquire all the necessary boats, grounds,

roads, approaches, landings, and improvements pertaining to the ferry.

(2) Each board may acquire real property for these purposes under the provisions of section 93-9901 - 93-9926.

(3) No board shall establish or maintain a county ferry or wharf with a landing-place in any incorporated city or town which, by its charter, is vested with the power to build and regulate ferries, wharves, or landings at the feet of streets terminating at a river or harbor.

Section 8-218. **Acquisition of property for controlled access facility.** The highway authorities of the state, counties, incorporated cities, and towns, respectively or in cooperation each with the other, may acquire private or public property and property rights for controlled access highways or controlled access facilities and service roads. Such rights may include rights of access, air, view, and light. They may be acquired by gift, devise, purchase, or condemnation, in the same manner as may now or hereafter be authorized by law for the acquisition of property or property rights in connection with highways, roads, and streets in their respective jurisdictions.

Acquisition of
property for
controlled access
facility.

Chapter 9. CONTRACTS.

Part 1. Contracts of Commission.

Section 9-101. **Letting of contracts on state and federal-aid highways.** All contracts for work on state and federal-aid highways, including portions in cities and towns, and all contracts entered into under section 11-1023 shall be let by the commission. Except as otherwise specifically provided, the commission may enter such types of contracts and upon such terms as it may decide. All contracts shall meet the requirements of sections 41-701 - 41-703. When there is no prevailing rate of wages set by collective bargaining, the commission shall determine the prevailing rate to be stated in the contract.

Section 9-102. **Competitive bidding.** (1) When the estimated cost of any work exceeds one thousand dollars (\$1,000), the commission shall let the contract by competitive bidding. Award shall be made upon such notice and upon such terms as the commission may prescribe by its rules and regulations. However, except when pro-

Contracts.

Contracts of
commission.

Letting of contracts
on state and
federal-aid
highways.

Competitive
bidding.

hibited by federal law, the commission must make awards and contracts in accordance with the provisions of sections 82-1924 and 82-1926.

(2) If the commission finds that such work may be done in some more efficient manner, it need not let the contract by competitive bidding.

(3) If, on any highway construction work financed in whole or in part by federal funds, the United States Secretary of Commerce affirmatively finds that under the circumstances relating to a particular project some method other than competitive bidding is in the public interest, the commission may enter into contracts with any board of county commissioners. Such contracts may authorize each county to acquire rights of way for, survey, and construct farm to market, secondary, or feeder roads within the county by force account, unit price, or otherwise, as may be agreed by the commission and each board.

Bidder's security
—contractor's
bond.

Section 9-103. Bidder's security — contractor's bond.

(1) Whenever the commission calls for competitive bidding, each bidder shall meet all requirements of section 6-501.

(2) Every contractor awarded a contract by the commission shall meet all requirements set forth in sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the commission, a contract shall not be completed until the commission, while formally convened, affirmatively accepts all of the work thereunder.

Contracts of
counties and local
improvement
districts.

Contracts for
county roads.

Part 2. Contracts of Counties and Local Improvement Districts.

Section 9-201. Contracts for county roads. (1) When the estimated cost of opening, establishing, constructing, changing, abandoning, discontinuing, or widening a county road exceeds one thousand dollars (\$1,000), the work may, in the discretion of the board, be let by contract, unless the board shall find that such work may be otherwise done at less cost.

(2) Before any such contract shall be let, the board shall advertise for bids at least once a week for two (2)

consecutive weeks, in a newspaper of general circulation in the county.

Section 9-202. Same — bids — award of contract. Each bidder shall comply with the requirements of section 6-501. The contract shall be awarded to the lowest responsible bidder in accordance with the requirements of sections 41-701 - 41-703, 82-1924, and 82-1926, and the board may reserve the right to reject any and all bids. When there is no prevailing rate of wages set by collective bargaining, the board shall determine the prevailing rate to be stated in the contract.

Bids—award
of contract.

Section 9-203. Same — contractors to furnish bonds. Before entering upon performance of the work, the contractor shall comply with the requirements of sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the board, a contract shall not be completed until the board, while formally convened, affirmatively accepts all of the work thereunder.

Contractors to
furnish bond.

Section 9-204. Letting of contract for bridge. (1) All bids for construction or repair of bridges shall meet these requirements:

Letting of contract
for bridge.

(a) If the commission has adopted or established a standard plan and specifications, the bids must be submitted thereon.

(b) All bids must be sealed. Each bidder shall meet the requirements of section 6-501.

(2) The board may reject any and all bids. If a contract is awarded, the board shall do so in accordance with the requirements of sections 41-701 - 41-703, 82-1924, and 82-1926. When there is no prevailing rate of wages set by collective bargaining, the board shall determine the prevailing rate to be stated in the contract. The contract must be entered with the unanimous consent of the members of the board.

(3) Before entering upon performance of the work, the contractor shall comply with the requirements of sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the board, a contract shall not be completed until the board, while formally convened, affirmatively accepts all of the work thereunder.

Letting of contract
by local improve-
ment district—bids.

Section 9-205. **Letting of contract by local improvement district—bids.** (1) After the board has made the order creating and establishing the local improvement district, the local committee of supervisors shall advertise for bids. The advertisement shall state generally the work to be done and shall refer to the plans and specifications. It shall also fix the time for opening bids in the office of the board. Each bidder shall meet the requirements of section 6-501.

(2) At that time, the committee shall open all bids. It may reject all of them and readvertise for bids. No contract shall be awarded at a greater sum than the estimate of cost provided for in part 4 of chapter 5 of this Code.

Award.

Section 9-206. **Same—award.** (1) If the committee awards a contract, it shall do so in accordance with the requirements of section 41-701 - 41-703, 82-1924, and 82-1926. When there is no prevailing rate of wages set by collective bargaining, the committee shall determine the prevailing rate to be stated in the contract.

(2) Before entering upon performance of the contract, the contractor shall comply with the requirements of sections 6-401 - 6-404. For the purposes of those sections with relation to contracts with the committee, a contract shall not be completed until the committee, while formally convened, affirmatively accepts all of the work thereunder.

(3) Partial payments may be provided for in the contract, and paid when certified by the county surveyor and committee.

Execution of con-
tract by board—
limit on liability.

Section 9-207. **Execution of contract by board—limit on liability.** The contract shall be executed in the name of and on behalf of the county by the board and attested with the county seal for the use and benefit of the local improvement district. The county shall not be subject to any claim or liability in an amount greater than that agreed upon with the district in the order fixing the amount chargeable to the county.

Control of access.

Chapter 10. CONTROL OF ACCESS.

Policy.

Section 10-101. **Policy.** The legislative assembly declares it to be the policy of this state to facilitate the flow

of traffic and promote public safety by controlling access to: (1) Highways included by the bureau of public roads in the national system of interstate highways.

(2) Throughways and intersections with throughways.

(3) Such other federal-aid and state highways as shall be designated by the commission in accordance with the requirements set forth in this chapter.

Section 10-102. **Definitions.** When used in this chapter: (1) "Interstate highway" means any highway now included or which shall hereafter be included as a part of the National System of Interstate Highways.

Definitions.
"Interstate
highway."

(2) "Controlled access highway" means all portions of any interstate highway, throughway, or throughway intersection which the commission shall determine and designate for through traffic, or other federal-aid or state highway over, from or to which owners or occupants of abutting land or other persons shall have no easement of access or only a limited easement of access, light, air, or view. It shall also mean those portions of spurs to the interstate highway system which the commission shall determine and designate as unsafe or impeded by unrestricted access of traffic from intersecting streets or alleys or public or private roads or ways of passage.

"Controlled access
highway."

(3) "Controlled access facility" means and includes all streets, alleys, public roads, private roads, and ways of passage intersecting any controlled access highway and all real property contiguous to the right of way of any controlled access highway.

"Controlled access
facility."

(4) "Existing highway" means and includes all highways, roads, and streets established constructed, and in use on March 2, 1955. It shall not include highways, roads, or streets, established, constructed, and in use after that date, or highways, roads, or streets, or portions thereof relocated after that date.

"Existing
highway."

(5) "Arterial highway" means any state highway designated by agreement between the commission and the secretary of commerce as part of the federal-aid primary system and any highway so designated as a part of the federal-aid secondary system which has been

"Arterial
highway."

constructed and is being used primarily for through traffic on a continuous route.

"Throughway."

(6) "Throughway" means any portion of an arterial highway constructed and used for carrying traffic partially or entirely around a town or city or a portion thereof.

"Throughway intersection area."

(7) "Throughway intersection area" means an area within a radius of three hundred (300) feet from the point of intersection of the center lines of a throughway and any public road, street, or highway.

"Highway authorities" or "authority."

(8) "Highway authorities" or "authority" means the entities in state, county, and municipal governments which have authority to construct, repair, and maintain highways, roads, and streets.

Designation as controlled access highway—resolution—findings.

Section 10-103. **Designation as controlled access highway — resolution — findings.** (1) No portion of any interstate highway, throughway or throughway intersection, or other federal-aid or state highway shall be designated as a controlled access highway unless the commission shall adopt a resolution so designating it. The resolution shall be adopted by the majority vote of the members in attendance at any regular or special meeting. In it, the commission shall find and determine:

(a) That it is necessary and desirable that the owners or occupants of the abutting land or other persons shall have no easement of access or only a limited easement of access, light, air, or view.

(b) That it is necessary and desirable that the rights of, or easements to access, light, air, or view be acquired by the state so as to prevent such portion of highway from becoming unsafe for or impeded by unrestricted access of traffic from intersecting streets, alleys, public or private roads or ways of passage.

(2) The requirement by the United States that access must be controlled shall be a basis of necessity for the passing of the resolution.

(3) The resolution shall contain a statement of the reasons for its adoption, and shall set forth the location, distance, and termini of the portion of the highway designated as a controlled access highway.

Section 10-104. Same—petition from city or county.

Petition from city or county.

(1) No portion of a throughway or throughway intersection, or other federal-aid or state highway within the limits of an incorporated city or town shall be designated a controlled access highway except upon petition in writing from its governing body.

(2) If the portion lies wholly or partially outside of any such corporate limits, the petition must come from the board of the county within which the portion is located.

(3) Any such petition, once filed with the commission, shall be irrevocable unless the commission concurs in a request to revoke it.

Section 10-105. **Powers of highway authorities.** (1) Those authorities of the state, counties, and municipalities authorized to participate in construction and maintenance of highways may plan, designate, establish, regulate, vacate, alter, improve, maintain, and provide controlled access facilities for public use. Each such authority shall, by resolution, make the findings and determinations provided for in section 10-103 of this chapter.

Powers of highway authorities.

(2) Within incorporated cities and towns, and upon county roads, each authority shall be subject to the consent of the appropriate governing body.

(3) Each authority may also exercise, with relation to controlled access facilities, any and all additional authority now or hereafter vested in it over highways, roads, or streets within its respective jurisdiction. It may regulate, restrict, or prohibit the use of controlled access facilities by any vehicles or traffic.

Section 10-106. **Design of controlled access facility — entrance and exit restricted.** (1) Each highway authority may so design any controlled access facility and so regulate, restrict, or prohibit access as to best serve the traffic for which the facility is intended. In so doing, it may divide and separate any controlled access facility into separate roadways by the construction of raised curbs, central dividing sections, or other physical separations, or by designating the separate roadways by signs, markers, stripes, and other devices.

Design of controlled access facility—entrance and exit restricted.

(2) No person shall have any right to enter upon, exit from, or cross any controlled access facility except

at designated points at which access may be permitted. Terms and conditions governing such access may be specified from time to time.

New and existing facilities—elimination of grade crossings.

Section 10-107. New and existing facilities — elimination of grade crossings. (1) Each highway authority may provide for elimination of intersections at grade of controlled access highways or controlled access facilities with existing federal-aid and state highways, county roads, and city or town streets. Elimination shall be accomplished at the boundary of the controlled access right of way.

(2) After the establishment of any controlled access highway or facility, no private or public highway or street which is not a part of the highway or facility shall intersect it at grade. No street, road, highway, or other public way shall be opened into or connected with any controlled access highway or facility without the prior consent and approval of the appropriate highway authority.

(3) The commission may, whenever it determines that the public safety is not thereby impaired, authorize the continued intersection at grade of lightly traveled farm entrances and minor public roads as ways of access to controlled access highways in sparsely populated rural areas. The commission shall have sole jurisdiction to determine the existence and location of any intersection with interstate highways, throughways and other federal-aid and state highways.

Existing roads and streets as service roads.

Section 10-108. Existing roads and streets as service roads. (1) In connection with the development of any controlled access highway or facility, each highway authority may plan, designate, establish, use, regulate, alter, improve, maintain, and vacate local service roads and streets. Each authority may designate as local service roads and streets any existing road or street.

(2) Service roads and streets shall be of appropriate design. They shall be separated from the controlled access highway or facility by means of all devices determined to be necessary to carry out the provisions of this chapter.

(3) Each authority shall exercise jurisdiction over

service roads and streets in the same manner as is authorized over controlled access highways or facilities.

Section 10-109. Marking of controlled access highway or facility with signs. Any controlled access highway or facility and portions thereof shall be physically marked by signs indicating to drivers of vehicles the points at which they enter and leave a controlled access area.

Marking of controlled access highway or facility with signs.

Section 10-110. Commercial enterprise or structure prohibited. No commercial enterprise or structure shall be constructed or operated on the publicly-owned right of way of a controlled access highway or facility or on any publicly-leased land used in connection therewith.

Commercial enterprise or structure prohibited.

Section 10-111. Violations — penalties (1) On any controlled access highway or facility it is unlawful for any person to:

Violations—penalties.

(a) Drive a vehicle over, upon, or across any curb, central dividing section, or other separation or dividing line.

(b) Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb, section, separation, or line.

(c) Drive any vehicle except in the proper lane, in the proper direction, and to the right of the central dividing curb, separation, section or line.

(d) Drive any vehicle from a local service road except through an opening provided for that purpose in the dividing curb, section, or line which separates the service road from the highway or facility.

(e) Construct, operate, or maintain any road or private driveway connecting with the highway or facility without first obtaining permission in writing from the highway authority having jurisdiction and, with the exception of an interstate highway, from the local governing body.

(2) Any person who violates any of the provisions of this section is guilty of a misdemeanor. Upon arrest and conviction therefor, he shall be punished by a fine of not less than five dollars (\$5) nor more than one hundred dollars (\$100), or by imprisonment in the city or county

jail for not less than five (5) days nor more than ninety (90) days, or by both fine and imprisonment.

Miscellaneous.

Chapter 11. MISCELLANEOUS.

Good Roads Day.

Section 11-101. **Good roads day.** The third Tuesday in June is hereby designated "Good Roads day." The governor may annually, by public proclamation, request the people of the state to contribute toward the improvement and safety of public highways.

Injuries to highways and trees.

Section 11-102. **Injuries to highways and trees.** (1) The malicious injury of any highway, bridge, private way, or guidepost or inscription thereon is punishable as provided in sections 94-3201 and 94-3202.

(2) Every person who, without authority, cuts down, or otherwise maliciously injures or destroys any shade or ornamental tree on any highway is punishable as provided in section 94-3202 (2).

Excavations across highways—permits and bridging.

Section 11-103. **Excavations across highways—permits and bridging.** (1) (a) Any person contemplating the excavation or construction of any ditch, dike, flume or canal across a public highway shall obtain a written permit from the board of county commissioners, road supervisor or county surveyor of said district before beginning construction or excavation.

(b) Any person obtaining said written permit shall bridge at once, in accordance with plans and specifications furnished by the board of county commissioners.

(2) Any such bridge shall be maintained by the county.

(3) Any person obtaining a construction permit or any person using the water of such ditch, dike, flume or canal shall keep the same in repair where such water may flow over or in any way injure a public highway.

Liability for permitting water to overflow.

Section 11-104. **Liability for permitting water to overflow.** (1) Every person who excavates or constructs or owns any ditch, dike, flume or canal, or stores, distributes or uses water for any purpose and permits the water to flow over any public highway to the injury thereof, must upon notification by the board of county commissioners, road supervisor or county surveyor of the district where such overflow occurred, repair the damages occasioned.

If such repairs are not made within a reasonable time, the district must make them and recover the expense thereof in an action at law.

(2) Every person constructing, owning or using such ditch or flume who permits an overflow is liable as provided in section 94-3565.

Section 11-105. **Highway encroachments—power to remove.** (1) If any highway is encroached upon by fence, building, or otherwise, the road supervisor or county surveyor of the district must give notice, orally or in writing, requiring the encroachment to be removed from the highway.

Highway encroachments—power to remove.

(2) If the encroachment obstructs and prevents the use of the highway for vehicles, the road supervisor or county surveyor must immediately remove the same.

(3) The board of county commissioners may at any time order the road supervisor or county surveyor to immediately remove any encroachment.

Section 11-106. **Notice to remove encroachment.** (1) Notice to remove the encroachment immediately, specifying the breadth of the highway and the place and extent of the encroachment, must be given to the occupant or owner of the land or person owning or causing the encroachment.

Notice to remove encroachment.

(2) Notice must be given in the following manner:

(a) By leaving it at his place of residence if such person resides in the county; or

(b) By posting it on the encroachment, if such person does not reside in the county.

Section 11-107. **Penalty for failure to remove encroachment promptly.** If the encroachment is not removed immediately, or removal is not diligently conducted, the one who causes, owns, or controls the encroachment is liable to a penalty of ten dollars (\$10) for each day the same continues.

Penalty for failure to remove encroachment promptly.

Section 11-108. **Removal of encroachment—actions—prosecution of offenses.** (1) If the encroachment is denied, the road supervisor shall commence in the proper court an action to abate the same as a nuisance. If he re-

Removal of encroachment—actions—prosecution of offenses.

covers judgment, he may have his costs and ten dollars (\$10) for every day such nuisance remained after notice.

(2) If the encroachment is not denied, and is not removed for five (5) days after notice is complete, the road supervisor or county surveyor may remove it at the expense of the owner or occupant of land, or of the person owning or controlling the encroachment. He may recover the expense of removal, ten dollars (\$10) for each day the encroachment remained after notice, and costs in an action brought for that purpose.

Prosecution by
county attorney.

Section 11-109. **Prosecution by county attorney.** The county attorney, upon complaint of the road supervisor, county surveyor, or any other person, shall prosecute all actions heretofore provided in the name of the state of Montana. All penalties shall be paid into the general fund of the county.

Dumping garbage
or other debris
or refuse.

Section 11-110. **Dumping garbage or other debris or refuse.** (1) It shall be unlawful to dump or leave any garbage, dead animal, or other debris or refuse:

(a) In or upon any highway, road, street, or alley of this state.

(b) In or upon any public recreational property, highway, street, or alley under the control of the state of Montana or any political subdivision thereof, or any officer or agent or department thereof.

(c) Within two hundred yards of such public highway, road, street, or alley, or public recreational property.

(2) Any person found guilty of a violation of this section shall be fined in the sum not exceeding twenty-five dollars (\$25), or imprisoned in the county jail for a period not exceeding thirty (30) days, or be punished by both such fine and imprisonment, in the discretion of the court.

(3) The provisions of this section shall be enforced by all highway patrolmen, sheriffs, policemen, and all other enforcement agencies and officers of the state of Montana. In addition, game wardens shall have the right to enforce the provisions of this section in or upon any public recreational property.

Amending clause.

Section 12-101. Section 16-1004, R. C. M. 1947, is amended to read as follows:

"Section 16-1004. **Roads, ferries, and bridges.** The board of county commissioners under such limitations and restrictions as are prescribed by law may:

Roads, ferries
and bridges—
powers of county
commissioners
—limitations.

(1) Lay out, maintain, control, and manage county roads, ferries, and bridges within the county.

(2) Levy taxes therefor as provided by law.

(3) In the exercise of sound discretion, jointly with other counties, lay out, maintain, control, manage and improve county roads, ferries, and bridges in adjacent counties, wholly or in such part as may be agreed upon between the boards of the counties concerned.

(4) Levy taxes therefor as provided by law.

(5) Enter into agreements for adjusted annual contributions over not more than six (6) years toward the cost of joint highway or bridge construction projects entered into in cooperation with other counties, or the state or the United States.

(6) Place such a project in the budget and levy taxes therefor as provided by law."

Section 12-102. Section 16-2008, R. C. M. 1947, is amended to read as follows:

Amending clause.

"Section 16-2008. **Board of county commissioners may issue bonds for certain purposes.** The board of county commissioners of every county of the state is hereby vested with the power and authority to issue, negotiate and sell coupon bonds on the credit of the county, as hereinafter in this act more specifically provided, for any of the following purposes:

Board of county
Commissioners
may issue bonds
for certain
purposes.

(a). For the purpose of acquiring land for sites and grounds for a public building or buildings of any kind within the county and under its control, which the county has lawful authority to acquire or erect, control and maintain; for the purpose of acquiring land for any other public use or activity within the county, under its control and authorized by law.

Land.

(b). For the purpose of constructing, erecting or acquiring by purchase necessary public buildings within the county, under its control and authorized by law, making additions to and repairing buildings and for the purpose of furnishing and equipping the same, and for the

Buildings.

purpose of building, purchasing, constructing and maintaining devices intended to protect the safety of the public from open ditches carrying irrigation or other water.

Liquidation
of debt.

(c). For the purpose of enabling a county to liquidate its indebtedness to another county incident to the creation of a new county or the changing of any county boundary line.

Payment
of warrants.

(d) For the purpose of funding, paying and retiring outstanding county warrants lawfully issued against the county general fund, road fund, bridge fund or poor fund, when there is not sufficient money in the fund against which such warrants are drawn to pay and retire such warrants and the levying of taxes sufficient to pay and retire such warrants within a period of three (3) years would, in the judgment of the board of county commissioners, work a hardship and be an undue burden upon the taxpayers of the county.

Redemption
of bonds.

(e). For the purpose of refunding, paying and redeeming optional, redeemable or maturing bonds when there are not sufficient funds available to pay such bonds and it is deemed for the best interests of the county to refund such bonds.

Seed grain warrants
and special relief
warrants.

(f). For the purpose of funding, paying and retiring outstanding seed grain warrants lawfully issued under the provisions of section 4651, and for the purpose of funding, paying and retiring outstanding special relief warrants lawfully issued under the provisions of section 4692, when there is not sufficient money available to pay such warrants and the levying of special taxes sufficient to pay the same within a period of three (3) years would, in the judgment of the board of county commissioners, work a hardship and be an undue burden upon the taxpayers of the county.

Judgments.

(g). For the purpose of funding, paying in full or compromising, settling and satisfying any judgment which may have been rendered against the county in a court of competent jurisdiction, when there are not sufficient funds available to pay such judgment and when sufficient money cannot be raised to satisfy such judgment by an annual tax levy of ten (10) mills levied on all the taxable property within the county through a period of three (3) years.

The resolution providing for the issue of such bonds must recite the facts concerning the judgment to be funded and the terms of any compromise agreement which may have been entered into between the board of county commissioners and the judgment creditor.

(h). Whenever the total indebtedness of a county exceeds the constitutional limitation of five per centum (5%) of the value of the taxable property therein and the board of county commissioners of said county finds and determines that the county is unable to pay and discharge such indebtedness in full, the said board of county commissioners shall have the power and authority to negotiate with the holders of the bonds of said county for an agreement or agreements whereby said bondholders agree to accept less than the full amount of such bonds and the accrued unpaid interest thereon in full payment and satisfaction thereof, to enter into such agreement or agreements and to issue refunding bonds for the amount agreed upon. These bonds may be issued in more than one series if the circumstances so require and each series may be either amortization bonds or serial bonds.

Indebtedness
in excess of
constitutional
limitation.

The plan agreed upon between the board of county commissioners and the bondholders shall be embodied in full in the resolution providing for the issue of such bonds."

Section 12-103. Section 16-2010, R.C.M. 1947, is amended to read as follows:

Amending clause.

"16-2010. **Limitation on amount of bonds—issuance in excess of limitations void.** No county shall issue bonds for any purpose which, with all outstanding bonds and warrants, except county high school bonds and emergency bonds, will exceed two and one-half per centum (2½%) of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the issuance of such bonds; provided, however, that a county may issue bonds which, with all outstanding bonds and warrants will exceed two and one-half per centum (2½%), but will not exceed five per centum (5%) of the value of such taxable property, when necessary to do so for the purpose of acquiring land for a site for county high school buildings and for erecting or acquiring buildings thereon and furnishing and equipping the same for county high school purposes; provided, how-

Limitation on
amount of bonds—
issuance in excess
of limitations void.

ever, that this act shall not be construed to extend limitations on bonded indebtedness for county high school purposes, as fixed by section 75-4114, and acts amendatory thereof; and further provided, that the foregoing limitations shall not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932. All bonds issued by any county in excess of the limitations herein fixed shall be null and void. The words 'value of the taxable property,' as used in this section, are used in the same sense as in section 5 of article 13, of the constitution, and shall be given the same meaning and construction."

"Value of the taxable property."

Amending clause.

Section 12-104. Section 16-3302, R. C. M. 1947, is amended to read as follows:

County surveyor—contracted indebtedness—duties.

"Section 16-3302. **County surveyor to work under direction of county commissioners—approval of commissioners required to contract indebtedness—duties of county surveyor.** (1) The county surveyor shall work under the direction of the board of county commissioners, but shall have no power or authority to incur any indebtedness on the part of the county without the *prior* order or approval of the board.

(2) *He shall make all surveys, establish all grades, and prepare plans, specifications, and estimates.*

(3) *He shall make progress reports and estimates of all work, and such other facts in relation thereto, as may be required by the board.*"

Section 12-105. Section 53-122, R. C. M. 1947, is amended to read as follows:

"Section 53-122. **Registration fees of motor vehicles—fees—fee for half year—dealer's registration and transfer thereof—public owned vehicles exempt from license or registration fees—license or registration fees for trailers, house trailers, semitrailers and tractors providing for deposit of all fees, other than license fees, except dealer license fees, collected by the registrar of motor vehicles, in the motor vehicle recording account for the payment of expenses of the maintenance and operation of the department of the registrar of motor vehicles.** Registration or license fees shall be paid upon registration or reregistration of motor vehicles, trailers, house trailers, semitrailers and dealers in motor vehicles or trailers in accordance with this act, as follows:

Registration or license fees.

Dealers in motor vehicles other than motorcycles, a minimum fee of thirty dollars (\$30.00) which shall entitle such dealer to two (2) sets of number plates, and five dollars (\$5.00) additional fee for each additional set of number plates up to six (6) sets, and two dollars (\$2.00) additional fee for each additional set of number plates, as may be applied for by such dealer; provided, that each dealer be required to furnish the registrar of motor vehicles a statement showing the makes of motor vehicles handled by him, and the total number of each make sold by him during the preceding year, and that he not be issued a license unless he so conforms;

Fees.

Dealers in motorcycles, trailers including house trailers, fifteen dollars (\$15.00);

Motor vehicles, weighing twenty-eight hundred and fifty (2850) pounds, or under, other than motor trucks, five dollars (\$5.00);

Motor vehicles, weighing over twenty-eight hundred and fifty (2850) pounds, other than motor trucks ten dollars (\$10.00);

Electrically driven passenger vehicles, ten dollars (\$10.00);

All motorcycles, two dollars (\$2.00);

Tractors and/or trucks, ten dollars (\$10.00);

Buses shall be classed as motor trucks and licensed accordingly;

Trailers and semitrailers less than two thousand five hundred (2,500) pounds maximum gross loaded weight and house trailers of all weights, two dollars (\$2.00);

Trailers and semitrailers over two thousand five hundred (2,500) up to six thousand (6,000) pounds maximum gross loaded weight, except house trailers, five dollars (\$5.00);

Trailers and semitrailers over six thousand (6,000) pounds maximum gross loaded weight, ten dollars (\$10.00);

Trailers used exclusively in the transportation of logs in the forest or in the transportation of oil and gas well machinery, road machinery and bridge material exclu-

sively, new and secondhand, and trailers used exclusively for the transportation of road machinery and bridge materials, shall pay a fee of fifteen dollars (\$15.00) annually, regardless of size or capacity.

All rates to be twenty-five per cent (25%) higher for motor vehicles, trailers and semitrailers, when not equipped with pneumatic tires.

Bicycles with motor attachment, one dollar (\$1.00);

Tractors, as specified in this section, shall mean any motor vehicle, except passenger cars used for towing a trailer or semitrailer.

Fee for ½ year.

If any dealer, or motor vehicle, house trailer, trailer, or semitrailer is originally registered six (6) months after the time of registration as set by law, the registration or license fee for the remainder of such year shall be one-half (½) of the regular fee above given.

A dealer in motor vehicles or trailers who shall maintain more than one (1) place of business or who shall maintain any branch establishment or establishments, must register and pay a registration or license fee for each such place of business or establishment.

Dealer's registration and transfer.

A registered dealer, who may sell or dispose of his entire business to any other person, may have his certificate of registration transferred to such purchaser upon filing with the registrar of motor vehicles a statement containing the name of the registered dealer, the number under which such dealer is registered, the name of the purchaser, and the location of the place of business so sold. Upon the filing of such statement, accompanied by a filing fee of one dollar (\$1.00), the registrar of motor vehicles shall note upon the registration record of such dealer the change of ownership. But no certificate of registration can be transferred unless the entire business of the dealer holding such certificate of registration be sold and disposed of, and no such certificate of registration can be transferred to any person other than the purchasers of such business.

Public owned vehicles exempt.

The provisions of this act with respect to the payment of registration fees shall not apply to or be binding upon motor vehicles, trailers or semitrailers or tractors owned or controlled by the United States of America or any

state, county or city, but in all other respects the provisions of this act shall be applicable to and binding upon motor vehicles, tractors, trailers, and semitrailers.

Disposition of fees.

All fees, other than license fees, mentioned and described in sections 53-110 and 53-112, and in section 53-135, shall hereafter be deposited in, and paid into, the earmarked revenue fund and shall be used to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles. Any reference in this code to the motor vehicle recording fund or the motor vehicle administration fund shall be taken to mean the motor vehicle recording account in the earmarked revenue fund.

Whenever, in the judgment of the state board of examiners, there shall be in said motor vehicle recording account more moneys than are reasonably required or needed to pay all salaries, operating expenses, and all other expenses of the department of the registrar of motor vehicles, such board shall distribute such unneeded surplus or excess to the fifty-six (56) counties of the state in a pro rata manner based upon the total number of motor vehicles registered in each county.

Section 12-106. Section 84-1831, R. C. M. 1947, is amended to read as follows:

Amending clause.

"Section 84-1831. **Definitions.** As used in this act, the following definitions shall apply:

Definitions.

(a) 'Person' means and includes any person, firm, association, joint stock company, syndicate, copartnership, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, as applied to a firm, association, syndicate, or copartnership, means and includes the partners or members thereof, and as applied to joint stock companies and corporations, the officers thereof.

"Person."

(b) 'Board' means the state board of equalization of the state of Montana.

"Board."

(c) As used in this act, 'public roads and highways of this state' shall mean all streets, roads, highways, and related structures as have been, or shall be, built and maintained with appropriated funds of the United States and which have been, or shall be, built and maintained

"Public roads and highways of this state."

with funds of the state of Montana, or any political subdivision thereof, or which have been or shall be dedicated to public use or have been acquired by eminent domain, or have been acquired by adverse use by the public, jurisdiction having been assumed by the state or any political subdivision thereof.

"Motor vehicle."

(d) 'Motor vehicle' means any vehicle which is self-propelled upon the highways.

"Special fuel."

(e) 'Special fuel' means those combustible gases and liquids commonly referred to as liquid petroleum gases and also diesel fuel or any other volatile liquid of less than forty-six degrees (46°) A. P. I. (American Petroleum Institute) gravity test, when actually sold for use in motor vehicles propelled upon the public highways or streets within the state of Montana.

"Use."

(f) 'Use' means either the receipt, delivery or placing of special fuels by a special fuel dealer into the fuel supply tank or tanks of any motor vehicle not owned or controlled by him, while such vehicle is within this state, or the consumption by a special fuel user of special fuels in propulsion of a motor vehicle on the highways of this state.

"Special fuel dealer."

(g) 'Special fuel dealer' means any person in the business of handling special fuel who delivers any part thereof into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him. For this purpose the term 'fuel supply tank or tanks' does not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.

"Special fuel user."

(h) 'Special fuel user' means any person other than a county, incorporated city or town or school district of this state, who consumes in this state special fuel for the propulsion of motor vehicles owned or controlled by him upon the highways of this state.

"Bond."

(i) 'Bond' means: (1) a bond duly executed by such special fuel dealer or special fuel user as principal with a corporate surety qualified under the laws of Montana, which bond shall be payable to the state of Montana conditioned upon faithful performance of all requirements of this act, including the payment of all taxes, penalties and other obligations of such special fuel dealer or special fuel user arising out of this act; or (2) a deposit with

the state treasurer by the special fuel dealer or special fuel user under such terms and conditions as the board may prescribe of a like amount of lawful money of the United States or bonds or other obligations of the United States or the state of Montana or of any county thereof, of an actual market value not less than the amount so fixed by the board."

Section 12-107. Section 94-3202, R. C. M. 1947, is amended to read as follows: Amending clause.

"Section 94-3202. **Injuries to milestones, guideposts, trees.** (1) Every person who maliciously removes or injures any mileboard, post, or stone, or guidepost or any inscription on such, erected on any highway, is guilty of a misdemeanor. Injuries to milestones, guideposts, trees—violation.

(2) Every person who maliciously injures or destroys any shade or ornamental tree on any highway is guilty of a misdemeanor."

Section 12-108. Section 94-3565, R. C. M. 1947, is amended to read as follows: Amending clause.

"Section 94-3565. **Ditch overflowing on highway.** Every person who owns, constructs or uses a ditch or flume, and allows the water therein to flow onto a public highway, or in or upon the property of another, is punishable by a fine not exceeding one hundred dollars (\$100)." Ditch overflowing on highway.

Section 12-109. Sections 16-1004.1, 16-1118, 16-1127, 16-1128, 16-2009, 16-2201, 16-2202, 16-2203, 16-2204, 16-3311, 16-3312, 32-102, 32-103, 32-104, 32-105, 32-106, 32-107, 32-201, 32-202, 32-203, 32-204, 32-205, 32-206, 32-207, 32-208, 32-302, 32-303, 32-304, 32-305, 32-306, 32-307, 32-308, 32-309, 32-310, 32-311, 32-312, 32-313, 32-314, 32-316, 32-401, 32-402, 32-403, 32-404, 32-405, 32-406, 32-407, 32-408, 32-409, 32-410, 32-411, 32-412, 32-413, 32-415, 32-416, 32-501, 32-502, 32-503, 32-504, 32-505, 32-506, 32-507, 32-509, 32-510, 32-511, 32-512, 32-513, 32-514, 32-515, 32-516, 32-517, 32-518, 32-519, 32-520, 32-521, 32-522, 32-523, 32-524, 32-525, 32-526, 32-601, 32-602, 32-701, 32-702, 32-703, 32-704, 32-705, 32-706, 32-707, 32-708, 32-709, 32-710, 32-711, 32-713, 32-714, 32-715, 32-901, 32-902, 32-903, 32-904, 32-905, 32-1002, 32-1003, 32-1004, 32-1005, 32-1006, 32-1007, 32-1008, 32-1009, 32-1010, 32-1012, 32-1013, 32-1014, 32-1016, 32-1301, 32-1601, 32-1602, 32-1603, 32-1604, 32-1604.1, 32-1605, 32-1606, 32-1606.1, 32-1607, 32-1608, 32-1609, 32- Repealing clause.

1610, 32-1613, 32-1614, 32-1615, 32-1615.1, 32-1615.2, 32-1615.3, 32-1616, 32-1617, 32-1618, 32-1620, 32-1622, 32-1623, 32-1624, 32-1625, 32-1626, 32-1801, 32-1802, 32-1803, 32-1804, 32-1901, 32-1902, 32-1903, 32-1904, 32-1905, 32-1906, 32-1907, 32-1908, 32-1909, 32-1910, 32-1911, 32-1912, 32-1913, 32-1914, 32-1915, 32-2001, 32-2002, 32-2003, 32-2004, 32-2005, 32-2006, 32-2007, 32-2008, 32-2009, 32-2009.1, 32-2010, 53-615, 53-615.1, 53-616, 53-617, 53-618, 53-619, 53-621, 53-622, 53-623, 53-628, 53-629, 53-630, 53-631, 53-634, 53-635, 53-636, 53-637, 53-638, 53-639, 53-643, 84-1812 (1), 84-1812 (2), 84-1815, 84-1817, 89-821, 89-822, 94-3201, R. C. M. 1947, are repealed.

Severability clause.

Section 12-110. It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Effective
December 31, 1966.

Section 12-111. This act shall be effective on December 31, 1966.

Approved March 5, 1965.

CHAPTER 198

An Act Relating to the School Foundation Program; Providing for Changes in Financial Schedules for the Maximum General Fund Budgets for School Districts and County High Schools; Providing for the Financing of Such Budgets; Removing Requirement for Schedule Revision; Amending Sections 75-1713.1, 75-3616, 75-3618, 75-3619, 75-3706, 75-4516.1, and 75-4518.1, R. C. M., 1947; Containing a Repealing Clause; and Providing an Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Amending clause.

Section 1. Section 75-1713.1, R. C. M., 1947, is amended to read as follows:

Changes in budget
when in excess of
foundation
program—
restrictions.

"75-1713.1. **Changes in budget by budget board when in excess of foundation program—restrictions on budgets.** If the total amount of the proposed elementary general fund expenses in the preliminary budget of any district

shall exceed the foundation program of such district, the budget board shall, in the manner and subject to the limitations prescribed by section 75-1713, reduce such proposed general fund expenses to a total equal to said foundation program unless the board of trustees of said district shall establish to the satisfaction of the budget board that special circumstances exist which justify such additional expenses, and in such event a statement of the reasons for the allowance of such additional expenses shall be attached to said budget and signed by the chairman of the budget board, but the entire amount of such excess expense over the foundation program shall be paid solely from levies upon the property in such district and shall not in any manner increase the amounts to be apportioned hereunder from the county common school levy or from the moneys available for state equalization aid; and provided, that, except in the case of the existence of the emergencies specified in section 75-1716, the entire amount of such additional expense over the foundation program plus the foundation program to be included in the budget of any district shall not be greater than the maximum amounts in accordance with the following schedules: provided that nothing herein contained shall be construed as preventing the voting of an additional levy in accordance with the general school laws pertaining to the voting of additional levies.

Elementary Schools

Elementary schools
—ANB—maximum
—computation.

(1) For each elementary school having an ANB of nine (9) or fewer pupils, the maximum shall be *fifty-six hundred thirty-one dollars (\$5,631.00)*.

(2) For schools with an ANB of ten (10) pupils, but less than eighteen (18) pupils, the maximum shall be *fifty-six hundred thirty-one dollars (\$5,631.00) plus one hundred sixty-five dollars and fifty cents (\$165.50)* per pupil on the basis of the average number belonging over nine (9).

(3) For schools with an ANB of eighteen (18) pupils and employing one teacher, the maximum shall be *seventy-one hundred nineteen dollars (\$7,119.00) plus sixty-six dollars and twenty-five cents (\$66.25)* per pupil on the basis of the average number belonging over eighteen (18), not to exceed an ANB over twenty-five (25).